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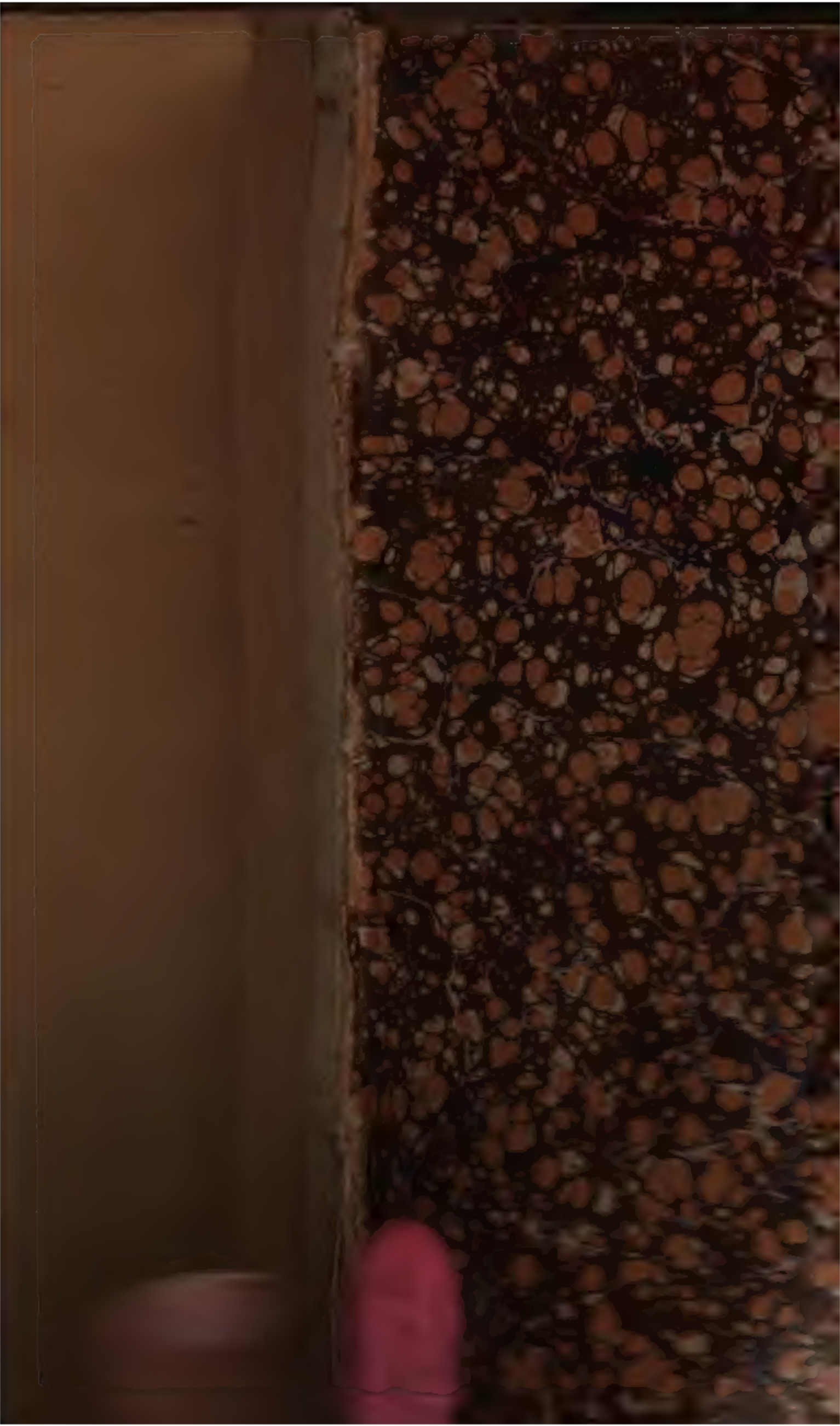
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# THE YALE REVIEW.

MAY, 1893.

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## COMMENT.

*The Gold Reserves and Bond Issues: The Farmers' Movement in Connecticut: Trade Unions and the Law.*

FOR several months past the gold reserves in the treasury have been approaching the danger point, and during the last few weeks they have fallen below the sum of \$100,000,000 which is regarded as essential to safety. Under these circumstances there has been a constant pressure upon the Secretary of the Treasury to use his power to sell bonds for the sake of increasing his reserve, or at any rate to give definite assurance that such a power would be used in case of necessity. The Secretaries of the Treasury, both under the past administration and the present, have shown a reluctance to make use of this power. For this caution, which seems to us thoroughly wise, they have been subjected to a great deal of adverse criticism, especially among the financiers and journalists of the East. We believe that these criticisms have been based on a misconception of the situation, and that the Treasury department has shown itself wiser and more far sighted than its critics.

The grounds of the criticism are obvious enough. If the United States failed to make gold payments whenever they were wanted, it would cause a great shock to public confidence and produce a severe depression, if not an actual crisis. The evils from any such depression would be so great, that many of our business men deem it the duty of the government to avoid this present peril at all hazards, trust-

ing to the future to take care of itself. There can be no doubt that there is such a peril, but there is grave doubt whether the expedient of bond issues as a means of meeting it would be either right or in the long run advantageous.

If a business man is spending more than he earns, we do not advise him to mortgage his house. Such a course may enable him to meet his current obligations, but in the long run it destroys his financial prosperity, instead of advancing it. The only right thing for him to do is to retrench his expenses. So far as the mortgage postpones the necessity of such retrenchment, we regard it as a bad thing. The United States government to-day is in a condition similar to that of a business man who spends more than he earns. It is making large outlays for rivers and harbors, it is burdened with a large pension roll, and worst of all, it has undertaken to maintain the parity between gold and silver in the face of adverse commercial conditions. These three things together prove too much for its current resources. There are three ways of meeting the difficulty,—either by decreased expenditure, increased taxation, or by borrowing money. Either of the two first is an honest business method, the last is not. If we allow an individual or a government to borrow money to meet a current deficit, we take away our only check against wildcat financiering of every kind. At present the power of the silver mine owners to use the United States government for their purposes is limited by the net revenues of that government itself. If we admit the issue of bonds as a means of maintaining the factitious parity of the two metals, we commit the country, as well as the government, to the support of the mine owners. Bond issues of \$50,000,000 or \$100,000,000 would enable them to draw to that extent on the commercial resources of the banks and the nation as a whole.

Any such policy can only prove of service for a time. It can only postpone the crisis which the present law is bound to bring. Any means of postponement like this will make the crisis worse when it does come. To-day we are in good condition to meet it. If the United States should fail to maintain gold payments, there is nevertheless \$500,000,000 of

**available gold in the country and not likely to be driven out of it, sufficient to form a good banking reserve for gold accounts, and to meet the demands for the use of that metal which are incident to the foreign and domestic trade of any first class country, under the commercial conditions of the present day. If the United States issues bonds as a means of making further purchases of silver, it correspondingly decreases the gold reserve in the country as a whole. It is useless to talk of selling the bonds abroad instead of at home. The indirect effect will be the same in either case. If we sell the bonds at home, we withdraw that amount of gold from circulation and gradually substitute silver. If we sell them abroad, we bring the gold to this country with one hand and drive it back to Europe with the other, as fast as the Treasury notes are placed in circulation. Under the exceptional conditions of a war there may be certain advantages in negotiating a foreign loan instead of a domestic one, but under the ordinary conditions of production and international trade it makes but the very slightest difference, whether the gold be borrowed at home and replaced from abroad, or borrowed abroad and then exported.**

**There is only one condition under which such an issue of bonds would be justifiable. If the exigency which now exists were only temporary, and the prospects for the speedy repeal of the silver purchase act were excellent, then we might be justified in temporary loans as a means of meeting the exigency. But we cannot look forward to a change of policy of this kind with anything like thorough confidence. That there is some change of sentiment on the silver question, we are glad to believe, but we are far from believing that there has been change enough to make an immediate repeal of the Sherman act certain or even probable. In the face of this uncertainty, we are not justified in treating the present difficulty as a temporary thing, which it is the duty of the Secretary of the Treasury to tide us over without regard to the future. We believe that the surest way to have the Sherman act repealed is to let people see its disastrous consequences. The gold advocates have been for fifteen years predicting evil which has not come. This is**

to-day one of the strongest arguments in the hands of the advocates of silver coinage. We do not believe that the United States will come back to a gold standard, until it has had a taste of this evil. The present time is not a bad one for the experiment. If the evil is inevitable and can only be made worse by postponement, it is best to face it to-day when we can stand the strain, rather than postpone it until the future, when the strain itself will be more severe, and our own powers of resistance weaker.

The State of Connecticut has just added an interesting chapter to the history of the farmers' movement. For thirty years the Sheffield Scientific School of Yale University has been the Land Grant College of Connecticut under the act of Congress of July 2nd, 1862. That act granted to the several States certain amounts of land scrip to be used for the endowment of colleges giving instruction in agriculture and the mechanic arts.

The sum realized by Connecticut from the sale of this scrip amounted to \$135,000, and only the interest on this could, according to the act of Congress, be used. To establish an independent college with such means was out of the question, unless the State should appropriate a very large additional sum of money. But in the Sheffield Scientific School, Connecticut already had an institution of the kind contemplated by Congress. The Legislature, therefore, decided in 1863 to constitute this school the College of Agriculture and the Mechanic Arts for Connecticut, and to devote to it the income of the fund, provided Yale College would execute a contract, promising compliance with the terms of the act of Congress. This contract, which was signed on behalf of the corporation by President Woolsey in 1863, provided, among other things, that the Scientific School should receive, gratuitously, each year, such a number of pupils as they paid at the regular rates, expend in tuition fees equal to half of the income of the fund. The school has faithfully kept this contract for 30 years, it has added largely to its teaching facilities from its own funds.

never received any appropriation from the State of Connecticut.

In 1890 an act was passed by Congress "For the more complete endowment and support" of colleges established under the act of 1862. This act offered to each of these colleges an appropriation rising from \$15,000 in the first year to \$25,000 in the eleventh year, "subject to the legislative assent of the several States and territories." Special provision was made for the payment, on the assent of the governor, of such installments of this appropriation as might become due before the adjournment of the legislature meeting next after the passage of the act, and, during the immunity from legislation which the people of this commonwealth enjoyed for two years, the income was under this provision paid to the Scientific School. The number of free scholarships was at once voluntarily increased by the authorities of the school in proportion to the increase in the government appropriation and in accordance with the terms of the contract of 1863.

When, however, the legislature convened in 1893, a bill giving the assent of the State to the acceptance of this grant was tabled, and another bill was introduced, providing, in substance, that all of the appropriation made under the act of 1890 should go to the Storrs Agricultural School. This school, it should be explained, had been established in 1881, by Augustus and Charles Storrs, who gave 160 acres of land in the town of Mansfield and \$5,000 in cash for the purpose. It is controlled and supported by the State. It was intended to be, and always has been, not a college, but a school of a lower grade. The aim of its founders was to give to country boys such facilities in the way of education as the city boys get from their high schools.

The hearing on this bill was novel in many particulars. It was referred, not to the judiciary committee, but to the committee on agriculture. The manifestation of interest in the subject proved so great that the ordinary committee rooms were not adequate, and the committee accordingly met in the hall of the assembly. Not only the seats of the house but also the galleries were filled with spectators of



both sexes, representing, according to current report, the granges in 131 towns.

Yale University presented a protest against the bill, signed by President Dwight, and setting forth that the university had entered into a contract with the State, that it had more than performed its part of the contract, and that to pass such an act as was proposed would be a violation of this contract, as well as an injury to the university, to the State and to some 81 students who were enjoying free scholarships under the operation of the two acts of Congress. This protest apparently produced little effect upon the committee or the audience. At the close of the hearing the chairman of the committee took the somewhat unusual step of calling for a popular *vive voce* vote on the question, the result of which was that the spectators gave a unanimous decision in favor of the bill.

Popular opinion having been expressed in this unmistakable manner, it was expected by the friends of the university that the bill would be quickly passed. Such was not, however, the case. The old bill was dropped, and a new bill was introduced as a substitute for it. No public hearing was held on this bill, and no official intimation was given to Yale University that its interests were again involved. Yet the new bill passed both houses by a large majority, and received the approval of the governor.

This act differs from the first bill in many particulars. It substitutes the word "youth" for "boys" in providing for the scholars of Storrs School, thus offering instruction in farming to both sexes. The original act constituting the Storrs School provided that it was to be open only to the sons of Connecticut citizens, but as a good many girls asked to be admitted, the director of the school decided to take them on the ground, as he puts it in his report for 1892, "that the *spirit*, if not the *letter*, of the law would thus be complied with." Under the new act the duty of interpreting the law of the land will not be added to the other duties of the director of the school. The Storrs School is to be henceforth known as the Storrs Agricultural College and its course of study is defined in terms identical with those used in the Congressional act of 1862.



The Sheffield Scientific School is, in the future, to take double the number of free pupils that it has been taking under the contract made in pursuance of the act of 1862, i. e. such a number as would expend in each year a sum equal to the whole of the interest received under that act, if they paid the regular tuition fees. But, oddly enough, the act entirely omits to say that anything shall be paid for this service. It may be understood that the income is to continue to be paid as henceforth, but that is left to implication, while the act very distinctly states that all of the income not paid over to Yale shall go to the Storrs School, and that nothing shall be paid to Yale University, until it has made a new contract with the State. The Storrs School is, however, not required to take any pupils gratuitously. Provision is made in the act for paying to the Sheffield Scientific School an amount sufficient to retain, until graduation, the students who are at present enjoying scholarships under the act of 1890, but no new nominations are to be made, and a commission is provided to assess the damages suffered by Yale University.

It will thus be seen that the new act takes away from the Sheffield Scientific School, not only all of the income granted in 1890, but also that granted in 1862, unless it will assume twice the burden originally contracted for. The income thus lost to the school would amount for the coming year to \$25,750.

The movement which led to the enactment of this law goes back in Connecticut to 1886. In that year the master of the State Grange, in his annual report, complained that the farmers of the State did not get the full benefit of the act of Congress of 1862, because of the high standard of admission to the Scientific School, and recommended that means be taken to secure an education especially adapted to them.

Ever since that time the Grange has been working to bring this about. In 1887 an attempt by those interested in the movement to carry such a bill led to a declaration by the State Legislature that the agreement made with Yale College in 1863 was an inviolable contract, and the matter was dropped. The growth of the organization has, however,

since that time been so great, that the Legislature of 1893 found no difficulty in passing the present act, in spite of the declaration of its predecessor.

The movement in Connecticut is, of course, only a branch of the National Grange movement. The committee on education of the National Grange reported in 1892 the following resolution: "That the National Grange Legislative Committee be instructed to continue their efforts for the passage of a law by Congress requiring the different States which have united the agricultural and mechanical colleges with classical institutions, to separate the agricultural and mechanical colleges from the classical." The State of Connecticut, however, has not seen fit to await the action of Congress in the matter, but has passed an act which has the effect of nullifying an act of Congress. Congress having offered a certain sum of money to the State for a specific purpose, the State has passed a law, saying that it would take the money and apply it to another purpose.

In a certain parable of the Bible, a certain steward, when he reached the point at which he was unable to dig and ashamed to beg, found a way out of his difficulty by readjusting his master's contracts, and he was commended by his master for so doing. It is evident that Connecticut farmers have not read their Bibles in vain.

Since the last number of the Yale Review was published, four decisions have been rendered in three different States, which bear directly upon the proposition made in that number with regard to increasing the responsibility of trade unions. The first of these decisions is, in point of time, that rendered by Judge Billings of the U. S. District Court for the eastern district of Louisiana, in the case of the *Amalgamated Council*.

This case grew out of the great strike of last November. A disagreement having arisen between the warehousemen and principal draymen on the one hand, and their employees on the other, the latter, in order to enforce their claims, secured the coöperation of the other labor organiza-

tions of the city. These were stated to be forty-three in number and to include some 27,000 men. The principal object of the strike seems to have been to secure the exclusive employment of union men. In the communication sent by the committee of the Amalgamated Council to the Governor of Louisiana, three propositions were submitted: "First, we are willing to arbitrate on wages; second, we are willing to arbitrate on hours; third, we want the question of 'none but union men to be hired when available from and after the final adoption of the tariff on hours' to be accepted without arbitration." The strike began November 5th and lasted until November 11th. On that day, application was made by the United States District Attorney for an injunction to restrain the Workingmen's Amalgamated Council from interfering with interstate commerce, and the strike at once ceased. This action was brought under the so-called anti-trust act of July 2nd, 1890, which provided that "Every contract, combination in the form of a trust or otherwise, or conspiracy in restraint of trade or commerce among the several States or with foreign nations is hereby declared to be illegal."

The decision of Judge Billings, which was rendered March 25th, sustained the injunction in all particulars. In this opinion the court laid down the principle that, though the act was originally proposed as a means of restricting combinations of capital, it in point of fact included combinations of labor as well. The decision implied, however, that it did not require people to work against their will; it only prohibited people from preventing others from working. In the language of the court "It is the successful effort of the combination of the defendants to intimidate and overawe others who were at work in conducting or carrying on the commerce of the country, in which the court finds their error and their violation of the statute."

The next decision, which also came from a federal court, was rendered by Judge Ricks of Ohio, in a case of contempt, arising out of the suit of the Toledo, Ann Arbor and North Michigan Railroad Company against the Pennsylvania Company and others. This originated in a strike of the engineers

of the Ann Arbor road. In accordance with rule 12 of the Brotherhood of Locomotive Engineers, no member of that organization is allowed to handle the property of another railroad which may be under the ban of the Brotherhood. The consequence was that all of the connecting railroads found themselves unable to haul trains, if there happened to be among the cars one that came from or was destined for the Ann Arbor road. Judge Ricks issued an injunction against the connecting companies and their employees to prevent them from refusing to do business with the Ann Arbor road, and eight of the engineers were arraigned for contempt of court, on the ground that they had disobeyed this order.

The provision of law under which the suit was originally brought was sec. 3, of the Interstate Commerce Act, which prevents common carriers from giving undue or unreasonable preference to one company over another.

From the evidence presented, it seems that a number of engineers, when called upon to move a certain train which contained cars intended for the Ann Arbor railroad, left the service of the company. In one case the engine was upon the track within a car's length of the train; in another case the engine was actually coupled. Judge Ricks, however, discharged all of the prisoners except one, upon the ground that they had a perfect right to leave the service of the company, if they chose. In the case of engineer Lennon it appeared that he only pretended to leave the service of the company, but did not actually do so.

On the same day, the main suit was decided by Judges Ricks and Taft, the opinion being written by Judge Taft. In this decision, Chief Arthur of the Brotherhood of Locomotive Engineers was enjoined from enforcing any rule which would require the engineers to make any discrimination in the handling of interstate commerce.

Though Judge Ricks' opinion asserted the right of the court to enjoin employees from leaving the service of a company under certain circumstances, its failure to convict seven of the eight engineers shows that a case must be very aggravated indeed to justify such an injunction. The only action prohibited by Judge Taft's decision was an order



which would require men *while remaining in the service of the Company* to refuse to handle certain kinds of business.

The fourth decision was that of Judge Speer, of the U. S. District Court for the southern district of Georgia, which was rendered April 8th, at Macon. In this case the Brotherhood of Locomotive Engineers petitioned the court to compel the receiver of the Central Railroad of Georgia to enter into a contract with that organization for the services of its members on that road. Though Judge Speer's decision incidentally involved the declaration that rule 12 of the Brotherhood of Locomotive Engineers was null and void (indeed the council for the Brotherhood offered to waive that rule), it sustained the petition, and required the receiver to make the contract. There was no suit here for the determination of rights, and the action of the court was justified only by the fact that the road was in the hands of a receiver. But it is significant on account of the recognition given to the brotherhood.

These decisions have been treated in some detail, because there seems to be a misunderstanding in some of the current accounts of the daily papers as to their real bearing. The decisions of Judges Ricks, Taft, and Billings have been hailed in certain quarters as a great triumph for capital, while in others they have been denounced as a great outrage upon labor. The fact that so many of those who criticise these decisions have found themselves called upon to misrepresent them is, in itself, a strong presumption of their justice. Thus, the editor of the *Social Economist*, in the number for April, (p. 243.) interprets the decisions as meaning "that a strike against a corporation is a strike against the government, and the courts have the right to compel laborers to work for a corporation or to put them in jail." And again he says: "If laborers are to be arrested for organizing, and for refusing to work for objectionable employers, then a Siberia must be created, the army enlarged, and a reign of terror inaugurated." (p. 244)

Not only, however, do these decisions not compel anybody to work against his will, but Judge Ricks' decision practically allows engineers to quit work, without warning

and under peculiarly aggravating circumstances. The same right was implied in Judge Billings' decision, while Judge Speer required the receiver of a railroad to make a contract with, and therefore recognize, the Brotherhood of Locomotive Engineers.

Thus Judge Billings' decision goes no further than to prevent trade unions from interfering with the freedom of those who are not members, while Judge Taft's decision merely requires that, as long as engineers remain in the service of the company, they shall not be allowed to make discriminations which federal law declares to be a misdemeanor, when made by the corporation itself.

All of these decisions are, moreover, very limited in their scope. The Ann Arbor decisions only apply to corporations that come under the action of the interstate commerce law. The decision of Judge Billings, though broader, only applies to unions which may interfere with interstate or international commerce.

If we may sift from these four decisions the tendencies of law which they seem to indicate, we should say that they tend:

1. To apply to labor organizations the same responsibility with regard to the public that has been applied to corporations.

2. To recognize labor organizations as bodies which in themselves are legal and which have a standing in court.

It is perhaps well that these principles should in the beginning be the result of judicial decision, rather than of legislative action, and that they should be based upon laws which did not primarily apply to labor organizations at all. But we can hardly regard them as a final settlement of the legal status of trade unions. Both Congress and the States should, in future legislation, enforce broadly and directly these principles of responsibility and legal standing which have been brought out incidentally, and almost accidentally, by the decisions of the courts.

## INDIVIDUALISM AS A SOCIOLOGICAL PRINCIPLE.

WHEN a writer upon a social theme begins to hint that individualism, though doubtless originally a sort of gospel, may possibly not have been intended to be an everlasting gospel, he is usually set down at once as an advocate of paternalism in government. The undersigned does not wish to be considered such. An extension, even a very great extension of its actual work by the public power, may be had without at all babying or coddling the citizen. The point which needs careful guarding is that the extension, if it occurs, be made in right directions, so as to stimulate and increase independence and the spirit of self help, instead of lessening them.

If in this conviction we proceed to suggest certain strictures upon the *laissez-faire* industrial régime, be it clearly understood at the outset that no criticism of the sort can lay any claim to sobriety, unless it takes full account of the good which this régime has done and is still doing. How competition has spurred individual initiative, quickened invention, brought out character, augmented production, and to what a valuable extent it is doing these things still, cannot be for a moment forgotten by a careful inquirer.

Yet this admission does not end discussion. It is kind in economists of a certain stripe, seeing "how heavenly far we have carried things" by the old means, to tell us about the exceeding worth of capital, and how superior a railway train is to a wheelbarrow as an instrument of transportation; but that they should suppose any whom their words will reach to be ignorant of these important truths, or should presume that information of this sort really touches the problem to whose solution they imagine themselves to be contributing, seems remarkable.

No thinker cognizant of the world's economic history will bring himself to believe that this competitive stage of industry is certain, or even likely to be the last. We have, let us



hope, studied too deeply to fall into the error which Karl Knies denominates 'perpetualism,'—the error of thinking that one and the same form of economy characterizes or can characterize all ages. As the primitive hunter became a shepherd, and the shepherd an agriculturalist, as, upon the basis of agriculture, rose the mediæval city with its merchants and manufacturers, and as the mediæval merchant and manufacturer turned in course of time into the nineteenth century merchant prince and captain of industry, flourishing by free competition and the wages system, so similar transitions are to be considered as in store for present economics. The open competition system: personal freedom, unlimited private property, liberty of commerce, contracts, and migration, is not yet a century old, and only the rudiments of it reach back to the middle age. It were stupid to suppose the development ended now. "It doth not yet appear what we shall be" industrially, but it is certain that we shall be something that we are not as yet. The industrial civil war, this feverish Ishmaelism in commercial life, cannot last forever.

In fact, if we but look about us, we see that already a new economic era has opened and is well advanced. While no government ever really let industry alone, there was a time when the English Parliament, sovereign over the greatest industrial nation beneath the sun, so owned the sway of Cobden and the Manchester School, that *laissez-faire* tenets were rather scrupulously regarded in its work. It is so no longer. Since Lord Palmerston's death, in spite of the immense Manchester influence continually brought to bear, the trend of English legislation has been steadily away from physiocratic maxims. A noble system of public schools has been created. Restrictions have been put upon the employment of women and minors. The hours of work have been limited. Rigid inspection of factories and mines has been introduced. An employers' liability law has been passed. There is scarcely a realm of England's industrial life which the legislator has not invaded. Municipal governments now perform a multitude of duties once left to individual initiative. Crowning all stand the Irish land acts,

which remove from the landlords, and vest in a commission, the determination of tenants' rents.' This revolt from Manchesterism is the very key to recent political history in Great Britain. It explains at once the Unionist secession from the Liberals, and the growing strength of the Liberals themselves. For the present, victory seems certain to crown that party in British politics which evinces willingness to go farthest in the direction of state surveillance over industrial affairs. In our own country, too, the same political influence is working. The known devotion of the Democratic party to extreme *laissez-faire* principles is probably no inconsiderable cause of its continual defeats in certain sections of our land.

Society does not supervise merely: itself enlists as *entrepreneur*. All advanced peoples have long been removing species after species of business, from the coining of money to the working of railways, telegraphs, and the express service, out of private into public hands. We Americans have lagged behind in this; yet behold the state of things even here. Wagon roads are private property no longer. Nearly all ferries, bridges, and municipal water-works are public. In 1850 not a free bridge spanned the Connecticut south of White River: now, all, except perhaps one, are free. Our colossal Post Office Department is a speaking monument of successful social enterprise, and it is carrying on, on an enormous and ever broadening scale, that transference of money values from place to place which was formerly the work of banks and express companies alone.

The men and women immediately employed by the United States form a vast multitude, reaching into the hundreds of thousands. Were those in State and municipal service to be added, it would be a veritable army. So of property. A statement was made a few years ago, showing the amount of the wealth held in common by the people of Boston. The city's valuation, as reported by the auditor in 1886, was \$710,621,335, these figures representing the wealth of separate persons and corporations. The same year Bos-

Hyndman, *History of Socialism in England*. Webb, *Socialism in England*. Publications of Amer. Economic Association, vol. iv, no. 2.

ton's own real and personal property was returned at \$68,827,245. To this communal wealth is to be added the value of the squares, pavements, sewers, parks, and bridges, which increases the sum to \$158,083,792. There is still to be reckoned in the property in real estate and funds of all Boston associations organized for the public good, and in effect that of the 200 or more Boston churches, for most of these, at any rate, belong to all the people of Boston. The same people are also joint owners in the property of the United States, Massachusetts, and Suffolk County, many parts of which valuably minister to their welfare. The nation contributes to the city's weal by its navy yard of eighty-three acres and a number of fine buildings; while State and county own within the city much property which adds to its æsthetic wealth and affords employment and labor.

Something like this account would have to be given of the scope of public entrepreneurship in every other American city. From the point of view of French Revolutionary social philosophy, America is clean gone in Socialism already.

We are suffering to-day from that habit of the traditional economic theorizing, unduly to sunder economics and general sociology. This is unscientific. It hampers right analysis. You can, of course, if you please, conceive and define economics with the time-honored straitness; only, if you do, to grapple with any of society's greatest latter-day problems, you will be forced to go outside of your economics. It is to the credit of our chief industrial reformers that they place man and not wealth at the centre of their systems. What will build up the noblest humanity? What use of his powers and environment will bring man the most rational life? These are the questions which economists as well as philanthropists now perforce ask, subordinating considerations of wealth-production and even of wealth-distribution to those mighty moral and sociological inquiries. Nor ought we to reject this larger view, because it was opened to us by plebeian sages, rather than by humanity's official teachers.

Looking so, in the only right way, at man as the primary entity, one is impressed that *laissez-faire* can be no absolute economic principle. We know from history that originally it was not intended to be. It was simply meant as a practical maxim. The phrase was first used in an economic sense, though probably in a somewhat indefinite way, by a merchant in a conversation with King Louis XIV. The formula *laissez nous faire* was employed by Legendre, the geometer, in 1680, during a dispute with Colbert. The phrase *laissez-faire* was introduced to scientific literature in 1736, by the Marquis d'Argenson, finance minister to the Duke of Orleans, Regent of France after Louis XIV's death. Dr. de Gournay was the earliest regular economist to utter it, which he did with the additional, "*et laissez passer.*" Only then could this memorable physiocratic watchword be said to be launched.

Even after this, for long, the words "*faire*" and "*passer*" had in the minds of economists a very limited scope. They meant simply freedom of labor and of exchange and commerce, not all-round independence of government. Devotees of the doctrine catchworded in them did not intend to be anarchists. They proposed to restrict government only touching men's industrial life, where, they believed, contrary to the mercantilist practice then long in vogue, the utmost liberty and competition ought to prevail.<sup>1</sup> When taunted by their opponents with teaching more than this, libertarians have always taken umbrage—justly, indeed, often, the charge, being captiously made and not logically sustained.

After all is there not good reason for some such identifying of *laissez-faire* doctrine with anarchism? Can you so sharply separate our economic from our other life, repudiating governmental surveillance in the economic domain while admitting it elsewhere? You cannot. The "economic man" is nothing but an abstraction. Our economic doings and motives are mixed up with infinite intimacy in our experience at large.

<sup>1</sup> J. B. Say thought that Government ought to interfere in industry only for two purposes, (1), to prevent fraud, and (2), to certify facts. Ricardo, Works, 408



Every human power, every impulse, fancy, prejudice, fate, to which members of our race are or can be subject may become for the time an economic factor. On the other hand, no men always, few ever, act in the sole character of economic agents. No one can possibly point out the boundary of the economic realm. In warning the public power not to enter there, you do, in effect, proclaim anarchy. Cases are hard to think of in which interference by law with conduct in any way would not involve meddling with some one's industrial pursuits. Liquor laws, for instance, and laws against obscene literature and pictures—what are they but invasions of citizens' modes of gain? To justify them because morals are involved is to admit that the two sorts of interests cross, and virtually to surrender *laissez-faire* as an absolute principle even for economics. Put logical pressure upon *laissez-faire*, it is anarchy. Anarchism no less than socialism thus roots in the theory of old-school economics.

But waiving this, and supposing the creation of wealth to be a substantive interest by itself, we find it no easier to regard the principle under consideration an absolute one. The advocacy of private enterprise in the draining, lighting, and paving of city streets, taxed the libertarian hardihood even of Herbert Spencer, and no one has seconded his motion. In such works, all favor public coöperation. But we must go much farther. No private person, natural or corporate, can be so safe a guardian of trust funds as government. Fixedness in the value of money, and the utmost possible stability of a banking system, can be secured only through government. The same of trustworthy statistics in most departments where we sorely need them. How could private enterprise insure us the support of ocean dikes, light-houses, and coast surveys, or protection against the importation of infectious diseases?

There are many industries in which individual interest is palpably and emphatically contrary to the amassing of general wealth. We need instance only the destruction of forests, the taking of fish and game at wrong seasons, and the manufacture and sale of hurtful books and pictures and of alcoholic drinks. The liquor traffic is an evil economic-

ally as well as morally, preventive and destructive of wealth on a colossal scale. Yet A and B find it too profitable to relinquish. It is safe to say that ninety-five per cent. of its effect is to impoverish men, to lessen people's material well-being. It withdraws capital and labor from admittedly productive channels. It diminishes men's productive power, partly day by day, partly by shortening life. And it vastly increases public expenses by multiplying paupers and criminals.

Every one knows of the quondam libertarian stand against public schools, particularly in England. The hostility was logical. Laws to secure public education, depending upon special taxes, invade industrial freedom. But they have proved an excellent measure, even from the point of view of wealth production. The same is true of factory legislation, here as well as in England. It was defiance of free contract, but, far from hindering the growth of riches, it mightily contributed thereto. It is not best economically for the nation as a whole that women and children should slave in mills all the long day and part of the night, because they may agree to do so, or that men, freely contracting, be kept at work in ill-lighted, ill-ventilated, noisome dens above ground or beneath, where no measure of vitality is proof against disease.

The entire uplift in the condition of the poor, such as it is, has come from the inworking upon the industrial world, of forces, philanthropic and ethical, which the mere business relations of employers and employees never could have supplied. And to-day, far along as the working population has gone, were it again surrendered to its unaided resources, left to fight its own battle for wages on pure *laissez-faire* principles, destitute of countenance and aid from the public conscience, left without the help of philanthropic and religious ideals in the people at large touching the manner in which human lives ought to be lived, its advancement would cease, and a retrogression, whose end none could foresee, would set in.

Besides the assumption, thus proved false, that individual interests always coincide with those of the social body, two

others, no less invalid, belong to the same *laissez-faire* philosophy. One is that men are quite sure to know their own economic interests, better, at least, than the public authority can, the other that they certainly pursue their economic interests when seen. Very wise people are often not aware what is best for them in material regards. They can, no doubt, usually direct themselves better than a second party can direct them, though there are innumerable exceptions to this. Of the sadly great multitudes who buy lottery tickets, how many are there who have any due notion what proportion of the chances are against winning? The writer knows a poor laundress who had to borrow \$50 to prevent the foreclosure of a mortgage on her wretched home, and who is paying, in monthly instalments, \$30 a year in interest on the \$50. She must by this time have paid over \$150 thus. Nor can any of her friends make her understand the obvious dictate of policy, to let the house go, mass her savings and buy another. The same devoted slave, to be sure of money for funeral expenses, has, against constant and the most kindly remonstrance, paid in insurance upon her own life and the lives of her children an amount of money at least ten times what will ever return.

Nor is such stupidity registered alone in "the short and simple annals of the poor." The history of banking, of insurance, of railways, and of business enterprises in general is replete with proofs of ignorance almost as dense, on the part of intelligent business men and even of trained capitalists.

Take the transactions of the railways with the Standard Oil Interest. All over the country, during many years, till forbidden by the Interstate Commerce Act, they granted to the Standard, to secure its custom, enormous secret rebates, not only enabling it to reap phenomenal returns on whatever business it might have done competitively, but to break down competitor after competitor in the struggle, so as to get many local markets entirely to itself, then charging such prices as it pleased. In certain cases these deals were good business policy; in the main they were the very reverse. In trampling to death its rivals, the Standard ground in



pieces many who had been and might have continued the railways' best supporters. Then, after they had well begun slow suicide in the effort to gain the Standard's favor, it took from them, wherever possible, its own business too, transferring it to its new pipe lines.

The doings of many railways also prove false the assertion that men are sure to pursue their interest when they know it. The Interstate Commission has found out that these railway wars, so ruinous to stockholders, unsettling the country's business far and wide, very often originate not in the pursuit of gain, but in anger and spite. It is believed that the Commission itself, cool, disinterested, and with a far deeper and wider view of business laws and movements than most railway officials possess, could make freight schedules for the trunk lines, which would be not only steadier and fairer for shippers and the country at large than many now in force, but actually more remunerative to the roads and stockholders themselves. Such an extension of the Commission's authority is very likely in prospect. Nor is it probable that the public's help in price-fixing will end with railways. Sooner or later it must extend to trusts.

That many of the bad economies referred to are beyond the reach of help save from the agents themselves, we are quite willing to grant. Just here and now, however, our work is describing diseases, not prescribing cures, and it is to our point to show that there is to the individual no such felicitous clockwork of economic automatism as each of us has so often heard described.

While selfishness is not the perfectly trustworthy economic servant which *laissez-faire* enthusiasts allege, unselfishness, on the other hand, has an economic office of which they do not dream.<sup>1</sup>

There are two great, generic forces which together explain a vast number of the phenomena that science has to study; one is gravity, the other the instinct of self-preservation. The action of the latter, so far as the brute creation is concerned, the masterly mind of Darwin traced. Partly owing to the important function of the propensity to self-

<sup>1</sup> Cf. Warner, in *Popular Science Monthly*, July, 1889.

preservation as exhibited by Darwin in the field to which he gave his attention, economists have sought to explain from the same force almost all the phenomena of the social world. This may be called the central conception of the English or old school economic theory. But, as in biology the masters are now forced to admit that the law of self-preservation does not solve all difficulties, so in the social world we find that we must take account of another force—that of altruism. In this department we have to reckon not with A, B, and C taken separately, but with society, with forces distinctly social as opposed to individual. We discover that society as a whole has a life of its own and a dynamic movement which constitute it an entity such as would hardly be so much as suggested by a study of individuals separately. And then, having scrutinized this social entity with its peculiarities, we also find that it explains much within the circle of individual experience which defied analysis before. It enables us to understand the altruistic impulse, and therewith the best part of man's ethical life.

If there is in old-fashioned competition the helpfulness to production in which we have been taught to believe, what must be said of those gigantic monopolies, with power to be helpful but in fact often cruel, which the let-alone system cherishes to new power and numbers daily, whose purpose and whose result it is to kill out competition within their scope!

When, in Henry VII's time, Lambert Simnel sought to impose himself upon England as Edward Plantagenet, Earl of Warwick, son of the murdered Duke of Clarence, it was objected to him, first, that they did not want another Yorkist on the English throne any way, and secondly, that he was not a Yorkist at all but an imposter. Similarly one might object to our old economic order, first, that *laissez-faire* is in many ways an evil at best, and secondly, that the system so named frequently does not yield genuine *laissez-faire* at all but quite the reverse.<sup>1</sup> Witness our railway pools, coal pools, beef pools, manufacturers' leagues, the

<sup>1</sup> See Sidgwick, *Contemporary Review*, November, 1886, p. 626.

Knights of Labor, trades-unions, and innumerable other combinations similar in nature. Current tirades against the tyranny of labor organizations contain most telling arguments against the *laissez-faire* theory. In fact, nothing could be more erroneous than to identify the let-alone policy with a real individual liberty policy.

Many cling to the delusion that these mighty combinations of capital are to pass away, and old-time competition to return. Bills have been brought before half the legislatures of the Union to compel free competition by making trade syndicates more illegal than they are. Depend upon it, such legislation is vain. The age of competition as we have known it is gone forever. Recall it? As well try to waken the dead. In simple industries, whose capital is small and little specialized, competition has worked well and will continue. The weakest party drops from the strife to-day, to-morrow the next weakest, and so on. But each loss is slight. The unfortunate *entrepreneur* lets himself for wages, and his stock passes to another. In such businesses competition is the best practicable way to insure a healthy life. Not so when the competitors are industrial Titans, each with a plant worth its millions, much of it so specialized that to relinquish business is to sink it utterly. In such cases, which more and more each year represent the world's industry, competition can not end with a little friction. It grinds, and, in time, kills. The great mill, placed at a disadvantage by position, by some tariff act, or perhaps by railway discrimination, is yet forbidden to shut down. That were to lose all. Better keep running and lose less than all. The least penny over fixed charges and running expenses is better than nothing. Down to that dead line at least the strife is likely to go on, the stockholders impoverishing themselves that their mill may compete. At last a bankrupt sale ensues, machinery going for junk, the building left to collapse from decay. Competitors survive, but of course poorer because of the war. Here, too, competition has proved a regulator—as Cæsar kept the peace in Gaul.

Fortunately, men have learned of a better regulator—viz., combination. Instead of keeping up that mortal conflict,

they unite, pool their interests, make common cause against others trying to enter the field, parcel out the production in as fair a way as possible, and fix buying and selling prices so that all alike may realize gains. Joining hands in this way is the industrial fashion of the day; nor will the change end till every great industry has taken on complete solidarity of organization.

Such a syndicate has in it the power to become an extraordinary blessing to society in cheapening production, so immense are the advantages of massed capital and centralized control. But we ask the reader specially to observe, what is widely overlooked or denied, that when a business comes under the trust form, no mere economic law is going to force the change to bless society. So far as economic law is concerned, it may and, unless looked after, probably will prove a curse instead.

When a commodity is produced under trust conditions, cost does not regulate selling prices. This is done quite arbitrarily for a time, the seller's whim being perhaps sobered a little by his memory of old competitive rates. Slowly, caprice gives way to law; but it is a new law—that of men's need. Prices go higher and higher till demand, and hence profit, begins to fall off; and they then play about the line of what the market will bear, much as they used to about that of cost. The producer can be more or less exacting according to the nature of the product. If it is a luxury, the new law may not elevate prices greatly above the old notch. If it is a necessity, he may bleed people to death.

We thus have issuing from the very loins of industrial freedom a principle of distribution which, unless regulated, is placing the weak at the mercy of the strong. This is an important result, for it shows the impossibility of holding, as is common, that the economic order in any case must be also an ethical order.

The older economists, English and French, the physiocrats that is, and their immediate successors, were economists merely, not sociologists or philanthropists, and did not feel called upon to justify an economic course of things



before the court of conscience. They studied the causes of wealth.<sup>1</sup> Their question was, primarily at any rate, what will advance in the highest degree society's material interests? They did not allege that a policy having this result would certainly be the best in social and moral regards. With the great masters of the English school, Ricardo, J. S. Mill, and Cairnes, this mind has, for the most part, remained. No English economist of the first rank has ever maintained that a perfect *laissez-faire régime* would at the same time be perfectly just. It was reserved for Bastiat to turn *laissez-faire* economics into a theodicy, to maintain that the free pursuit by each human being of his own welfare as conceived by him, would result in the highest possible good of the community as a whole.

False as this tenet is, nothing can be more interesting than the reasoning which led to it. Its later devotees have felt called upon to square the economic order advocated by them with moral law, to justify it before the bar of moral reason. Bastiat went so far as to deny the doctrine of rent, because if true it would be unjust, breaking in upon his beautiful system of economic harmonies. Our American teachers who pretend to stand up for the economic faith as delivered by Adam Smith, nearly all go beyond him to the position of Bastiat, proclaiming the state of affairs produced by perfect liberty to be the one wherein dwelleth righteousness.

It is necessary to appeal from them to Adam Smith, Ricardo, and Mill. We deny that the *laissez-faire* order is necessarily just or moral, as we have denied that it is best calculated to promote either the aggregation or the distribution of wealth. Industrial liberty has been, and still is, a mighty engine of good. The point is to work it, not to worship it, to take it, where we can, as an economic maxim, but not as imperative or sacred law, even in economics, still less in morals.

There is special light in all this upon the most vexing question at present up in economic theory, that of distribu-

<sup>1</sup> See Sidgwick, *Economic Socialism*, *Contemporary Review*, vol. 50.

tion. All our darkness in this field, which is very dense, comes from the assumption that, when we have found how economic causes within man and outside, acting independently of society's reason and volition, would distribute wealth if left to themselves, the result ought to be for the best good of all, and so to accord with righteousness. When the outcome is seen not to be of this character, most economists divide into two classes—those who wrest morals to suit their economics and those who wrest economics to suit their morals. But why assume that automatic distribution must be of a moral cast or bring about the greatest good? It is hard to see why the operation of laws and forces in our nature and the universe, when not guided by reason, should partake of an ethical character any more in the economic realm than in the physical realm. If an earthquake knocks down your house, leaving you so much poorer, perhaps with nothing, you do not express surprise at the unethical character of the physical laws operative in the event. Why should you any more when poverty befalls you by the blind working of an economic law?

It seems to the writer that in automatic or unregulated economic distribution no ethical principle is to be found. If we unfortunately insist on naming automatic distribution "natural," then the same is to be said of "natural distribution," and we may as well end the quest for harmony between the ethical and the economic. Ungoverned, unguided, mechanical distribution will never issue in justice.

Having settled that point we may look about with some hope for the best sort of regulation. This naturally recalls the question of government and its functions. We are very far from supposing that all the economic happiness for which men long can be secured by the agency of government. What is maintained is that, doing our best to purify our government, and to make it a fit agent for such delicate duties, we not only may, but must, utilize it as a regulating and harmonizing factor in the economic sphere.

To try to confine government to police work has been found absurd. Recurring to a phrase just now used, let us observe that many intelligent writers express themselves



touching the "natural" sphere and function of government, quite in the crazy spirit of Rousseau. The doings of men society-wise and government-wise are as "natural" as the growth of trees, only they take place in a special field of "nature," where perturbing influences are abnormally prevalent, these influences too, in both spheres, being "natural" in their way. The appropriate question is not, what is it natural for government to do? but what is it rational that it should do? To which the only sane answer is that it should do at any time and place all that it is then and there for the true and permanent weal of society at large that it should do.<sup>1</sup> Just as your body gets on in parts automatically, but in other parts needs the guidance of thought, acting here with constant and there with occasional consciousness, so the social body was intended to do its work,—in certain functions as an automaton, in others with cerebral supervision at intervals, and in still others with an intense and unremitting social consciousness. In the economic domain, automatism has hitherto been thought sufficient. We are now finding that wits and planning may be well-nigh as essential here as in any sphere of our life. Into the social as into the individual body brains were put, not just to fill up, but for use.

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<sup>1</sup> Cf. Beausire, *Les attributions de l'état. Annales de l'École libre des Sciences politiques*, 15 Janv. 1888.

## THE REPUBLIC OF ANDORRE.

AS survivals the very small States of Europe possess an interest not attaching to the larger States. Their actual institutions help the student to recall a social condition not characteristic of this age but of a somewhat remote past. Andorre, as it is to-day, is a survival from a mediæval period in which sovereign power was practically in the hands of the inhabitants of small districts. In the process of national development, as it has been carried on in Europe, such independent districts have been drawn closely together and subordinated to a central authority ; but here and there they have remained essentially in their primitive condition, political relics of a society which, except in these isolated instances, has passed away. The cantons of Switzerland before their union in a federal republic belonged to this class of political survivals, and San Marino, though surrounded by Italian territory, still holds a form of political independence. In the nation-making process, therefore, certain small groups were left out, and these have subsequently organized for themselves more or less independent and self-sufficing administrations. The difference between the position of the early Swiss canton and the present position of Andorre lies in the fact that the Swiss cantons had thrown off the obligations of allegiance to a feudal superior, while Andorre has continued to recognize this allegiance during the greater part of the thousand years of its individual existence.

The territory of Andorre is composed of a valley which ascends northward from Spain, and at a point a short distance above the village of Andorre is lost in two branches which have their northern limit in the summit ridge of the Pyrenees. Down these narrow valleys flow rapid mountain streams, which unite near the capital and form the little river of Valira. This then passes on southward through a narrow gorge in the mountains, and becomes a tributary of the Spanish river Segre. Around these valleys on all sides

rise the lofty heights of the Pyrenees, shutting out the progressive world and shutting in a fragment of mediæval Europe. This territory is divided into six parishes whose limits are the same as those fixed by Lewis the Pious. They are not only ecclesiastical but at the same time political districts. At the lower end of the valley, on the river Valira, lies the district of San Julian. Adjoining it on the north lies the district of Andorre, in which stands the capital, and in which the two upper valleys come together. Above Andorre in the eastern valley is the district of Encam, and above this the district of Canillo. In the western valley immediately north of Andorre lies the district of Masana, and still farther north the district of Ordino. The name of each of these districts is the same as the name of its principal village. The territory of Andorre, embracing these several political divisions, extends from north to south about seventeen miles, and about eighteen miles from east to west. The valleys are generally very narrow, and in some cases mere gorges in the mountains. Aside from the valleys, the territory is made up of peaks and ridges and rugged mountain sides. The only considerable piece of fairly level country is the region immediately about the town of Andorre. During the winter the communication with France over the mountains is "sometimes impossible and almost always difficult and dangerous. From the month of June to the middle of September, it is often very warm in Andorre, especially in the lower parts, and particularly from noon to five o'clock. The winters are generally rigorous. Already in the beginning of November the snow lies on the high mountains. It descends gradually to the lower lands, and disappears insensibly from below upwards with the return of summer." At the end of June the vegetation of the lower valleys is far advanced; the rye in the small fields has already attained its full height, and the grass in the meadows, mingled with a great variety of wild flowers, is ready to be cut for hay.

A French writer who has given much attention to the subject describes Andorre as "a republic organized about ten centuries ago, which throughout the age of feudal bar-

barism, throughout the revolutions of the great countries which border on it, has known how to preserve its manners, its ideas, its language, its civil, political, and religious organization without alteration and without mixture. This country, situated in mountains which are inaccessible during a part of the year, far from the two great lines of communication between Spain and France, out of the reach of the armies of invasion of the two countries, has been able by its geographical position and perhaps by the determined energy of its simple and rustic inhabitants to escape all foreign influence; as it is poor and peopled almost exclusively by shepherds and tillers of the soil, it has not tempted ambition and cupidity. It is in consequence of all these circumstances that the republic of Andorre presents to modern civilization the strange example of an ante-feudal society, stationary for a thousand years, and which, like a medallion perfectly preserved, has come down to our day with its relief and legend unmarred.”<sup>1</sup>

A brief review of the history of Andorre is sufficient to show that, instead of standing as an independent republic through all these centuries, it has remained a mediæval fief. After the Moors had been driven beyond the Ebro, and the lands about the Pyrenees been brought again under Christian dominion, the church of Urgel, then in the hands of Bishop Sissebuto, was solemnly dedicated on the 1st of November, 819. Sinofred, Count of Urgel, attended as the representative of the Emperor, Lewis the Pious; and from all sides were assembled the notables of the surrounding territory. On this occasion Count Sinofred, exercising the powers with which he had been clothed by the Emperor, proceeded to endow the church with the people and lands of the city of Urgel, of Cerdaña, of Berga, and of Pallas and Ribagorza, that it might have and hold them as Bishop Possidonio had held them in the time of Charles the Great. This donation included, moreover, all the parishes of the Valley of Andorre, together with all the churches and towns and whatever else belonged to it. To this document was appended the following ecclesiastical flourish: “Let no

<sup>1</sup> Berthet, “*Le Val d’ Andorre*,” p. 69.

prince, count, or baron, or any other person of whatever estate or condition, dare to do violence, use force, or commit invasion with reference to the things given to the aforesaid bishop and his successors; and if any of the said princes, counts, and marquises shall commit such violence, or intend to infringe, alter, usurp, or invade any of the aforesaid things, let it be known that if he does not repent and give the satisfaction due, making amends for that which he shall have done, he shall be excommunicated by the authority of God, of Saint Peter and the other apostles, and by the authority of three hundred and eighteen Fathers of the Church, be alienated from the limits and ranks of the holy Church of God and of his kingdom of heaven, and be buried in the abysses of hell.<sup>1</sup>

But in spite of these threats, this grant, like most grants of the Middle Ages, needed frequent confirmation to insure its peaceable enjoyment. The requested confirmation was executed by the Emperors on several subsequent occasions; and the grant was also confirmed by the popes at various times: in 951, in 1001, in 1010, and in 1099.

Some years after Andorre had been placed under the suzerainty of the bishop of Urgel, Charles the Bald, apparently ignorant of the fact that it had already been bestowed upon the bishop, ceded it with certain other territory to Sigfried, Count of Urgel. "From this moment the counts of Urgel considered themselves the sovereign princes of the Valley of Andorre. They began to assume the prerogatives of such princes, in spite of the energetic opposition of the bishops of Urgel, founded on the privileges which Charles the Great and Lewis the Pious had granted to them previously."<sup>2</sup>

The conflicting claims thus established led to long controversies and actual hostilities. In 1194 the count of Urgel declared war on the bishop. He invaded the bishopric of Urgel, and subjugated by force the Valley of Andorre. Under these circumstances the bishop turned for succor to Ramon Roger, the count of Foix, "offering to cede to him

<sup>1</sup> Luis Dalmau de Bequer, "*Historia de la Republica de Andorra*," p. 21.

<sup>2</sup> Dalmau de Bequer, p. 24.



*pro indiviso* the dominion which he held over the Valley of Andorre, if he would undertake the defense of his rights. The count of Foix accepted the overtures of the bishop, and, accompanied by the nobles of his territory and a respectable army, invaded the dominions of the count of Urgel. He took possession in person of many of the towns, and even entered the city of Urgel, which had declared against the bishop, and which on that account suffered a general pillage, so that not even the church could be saved.”<sup>1</sup> It was not in keeping with the spirit and practice of the twelfth century for even a complete victory to be followed immediately by an orderly settlement of the matter in dispute. Thus the victory of the count of Foix, although apparently decisive, left the affairs of Urgel and Andorre in confusion.

The ending of the conflict between the bishop of Urgel and the count of Urgel, only made way for a dispute between the bishop of Urgel and his ancient ally, the count of Foix. The count of Foix claimed part of the sovereignty of the Valley of Andorre in accordance with the agreement which had been made with Bishop Bernardo de Castrobono. But as the successors of Castrobono failed to carry out the conditions of this agreement, a war arose between the counts of Foix and the bishops of Urgel, “even more bloody and disastrous than that which had been caused by the previous alliance.” New force was added to the claims of the counts of Foix by a marriage which united the house of Foix and that of Bastelbo and Cerdaña. On the death of Arnold, in 1226, his viscounty of Castelbo and Cerdaña passed as an inheritance to his daughter, Ermecende, who was married to Roger Bernard, the count of Foix. At Ermecende’s death her possessions were left to her husband, and from him they passed to his son and successor, Roger IV., and were finally transmitted to Roger Bernard III., in 1264.

This last named count of Foix formed an army of about 20,000 men, and entered Catalonia with the purpose of “establishing the right which belonged to him in the viscounty of Castelbo and other lands, and principally to reclaim from

<sup>1</sup> Ibid., p. 25.



the bishop of Urgel his part in the sovereignty of the Valley of Andorre." He demanded of Urgio, then hishop of Urgel, absolution from the homage and oath required of him on account of the castle of Saint Vincent and the other possessions which, as viscount of Castelbo and Cerdaña, he held in the Valley of Andorre. The bishop refused to grant this request, in spite of the danger which threatened him; and this refusal was followed by actual war. The count of Foix led his army into the territory of the bishop, and, except in the Valley of Andorre which he wished to preserve intact, spread devastation on all sides. But the bishop, supported by his chapter, still held out, and would not release the count from the homage due from him as the successor of the count of Castelbo.<sup>1</sup> Enraged by the stubbornness of the bishop, the count laid siege to the city of Urgel; the prisoners of war, including numerous vassals of the church, were placed at the foot of the walls, and a decree was sent forth that a similar fate awaited the besieged unless they made an unconditional surrender. Driven at last beyond the hope of further resistance, and in order to avoid utter ruin and the sacrifice of life, the bishop and his canons finally demanded and obtained the privilege of surrendering themselves and their city. In the treaty which was formed as a consequence of this victory, it was agreed, among other things, that the bishop for himself and for his successors should absolve the count and his successors from the oath and homage which he had claimed the right to demand; that he would yield to the count, in the Valley of Andorre, the part of the dominion which Bishop Bernardo de Castrobono had formerly offered to the count of Foix at the time of his lending aid to the bishop against the count of Urgel; and, finally, that the bishop capitulating should procure the approval of the pope, under penalty of 50,000 sueldos in case he should not obtain it within a period of four years, and that the payment of this sum should be guaranteed by the king, Don Pedro, of Aragon.<sup>2</sup>

<sup>1</sup> Vidal "*L'Andorre*," 62-63.

<sup>2</sup> Archives of Andorre, cited by Dalmau de Baquer, p. 30.

But the terms of this agreement were not fulfilled within the specified four years; and the exasperated count began hostilities once more. He appeared before Urgel with a formidable army, when Jatvert, bishop of Valencia, foreseeing the calamities hanging over the unfortunate people, came between the enemies and urged them to settle their differences by mediation. Strangely enough this wise advice was followed, and the matter in dispute was committed to a council of arbitrators, composed of the bishop of Valencia, a canon of the cathedral of Narbonne, and four cavaliers. They were given full power to draw up terms of an agreement in accordance with law and justice. Their decree of arbitration has become famous among the Andorrans under the name of *Pariatges*, and has remained till the present, in some sense, as the constitution of Andorre. By this decree it was determined that the count of Foix and his successors should have the dominion and suzerainty of the Valley of Andorre *pro indiviso* with the bishop of Urgel; that the count of Foix should receive from the inhabitants of the Valley of Andorre a contribution called *quistia*, alternately with the bishop of Urgel; that in the year of this agreement the count should begin to receive it; that the count as well as the bishop should have in the valley a delegate to whom should be committed the administration of justice in both civil and criminal cases, with jurisdiction over all the inhabitants; that these delegates, commonly called *Vegueres*, should, if possible, hold court together, but that if one of them was unable to be present, the other should act for both, and the decrees should always be pronounced in the name of the two powers. The emoluments arising from the administration of justice were required to be divided, but in such a way that the count of Foix might take three fourths, while at the same time the bishop was required to contribute only one fourth of the expenses necessary for holding the courts. The count was required to hold as fiefs from the bishop the ancient possessions, in the Valley, of the Viscounts of Cerdaña. This decree of the arbitrators was issued in the city of Urgel on the 7th of September, 1278, and was then signed and ratified by Bishop

Pedro de Urgio, by the canons who then formed his chapter, by Bernard Roger, by the king, Don Pedro, of Aragon, and by the abbot of San Saturnino de Tabernolas. Later it received the public seal, and was approved by the Pope.

It is now six hundred years since this decree was issued, putting an end to conflicts and fixing the place of Andorre in the political world. In the course of time the house of Foix was united with the house of Bearn which already embraced the houses of Castellbell, Moncada, and Rosanes; and all these united passed, in 1589, to the house of Bourbon; and thus, through Henry the Fourth, part in the undivided suzerainty of Andorre was brought to the throne of France. But the changes of persons holding the supreme power have brought no essential changes in the character of the suzerainty. The decree of 1278 "subsists still in all its integrity, faithfully followed by the sovereign powers and justly venerated by the Andorrans, who have always considered it the best shield of their independence." And throughout these centuries the internal history of Andorre has the even flow of the uneventful annals of the poor.

Considering how many centuries the Andorrans have preserved their political individuality and privileges, one is naturally led to inquire concerning the nature and extent of these privileges. The general character of Andorre, although it is called a republic, is rather that of a mediæval fief than of a modern republic; and unlike the primitive cantons of Switzerland, it has never thrown off its allegiance to its immediate lord or lords. It has, therefore, no traditions of heroic struggle and resistance, like those which glorify the dawn of Swiss independence. Its privileges are largely such as have been granted to it by superiors, not the fruit of the daring and self-sacrifice of its inhabitants.

In 1313 the king, Don Pedro III., of Aragon, while he regarded Andorre as a part of Catalonia, "declared that the bishop of Urgel should never pay anything on account of the dominion and suzerainty which he held over the Valley of Andorre." The same view was held by later kings of Aragon. On one occasion the infante Don Pedro, of Aragon, spoiled the count of Foix of his part of the sovereignty



of the Valley of Andorre, but at the same time confirmed to the Andorrans all the privileges which the count had conceded to them. By a decree of John I., in 1390, the inhabitants of Andorre were granted complete freedom of trade with Catalonia, and this privilege was confirmed in 1403. In the beginning of the sixteenth century, in 1514, Ferdinand II., and his consort, of Aragon, confirmed all the privileges of the Andorrans; and in 1538 the emperor, Charles V., declared the Andorrans neutral, and that as neutrals they might trade with France and transport thence to the Valley all kinds of merchandise, even in time of war. Similar confirmation was granted by Philip II., in 1585, and by Philip III., in 1599. Later, in the seventeenth and eighteenth centuries, whenever the privileges of the Andorrans have been called in question, they have been recognized as legitimate by different authorities.

After part in the undivided suzerainty of Andorre had fallen to Henry IV. and his successors, the liberties and privileges of the Andorrans, as they had been established by the counts of Foix and the bishops of Urgel, were taken under the protection of the French kings. "The authorities of Andorre have always respected the appointments of veguer made by the king of France, and taken the oath of homage to that sovereign whenever demanded."<sup>1</sup> The good understanding, however, between these two powers suffered a temporary interruption. The Revolution swept away feudalism, and left a sentiment in France sharply opposed to any manifestation of the feudal spirit. When, therefore, in 1793, the Andorrans offered the usual tribute, or *quistia*, to the French government, the officers whose business it was to receive it refused to accept the payment; and with this ceased for a time the traditional relations of France with Andorre. A community with the character of a primitive Swiss canton might have rejoiced at thus becoming rid of its superior; but not so the people of Andorre. They had been so long in a condition of feudal subjection that to be deprived of their suzerain appeared as a misfortune, more especially so at this time when France and Spain

<sup>1</sup> Dalman de Baquer, p. 37.

were on the eve of war, and the little state might expect to be ruined in the shock of the superior powers.

Throughout this war, however, the Andorrans succeeded in preserving their neutrality; and after its close they were brought once more into their former relations with their ancient suzerains. The rights of the French crown were revived, and while Napoleon held the power, the liberties of Andorre were respected. On the 28th of March, 1806, he issued the following decree: "There shall be appointed by Us, on the nomination of the minister of the interior, a *veguer* taken from the department of Ariege, who shall exercise over the Valley of Andorre all the privileges which compacts and custom may have conferred upon him. The receiver general of the same department shall receive from the Andorrans the annual contribution of 960 francs. There is granted to the Republic of Andorre the right to take from France the quantity of grain and the number of cattle which the Council permitted them to export in 1767. Three deputies of the Government of Andorre shall take an oath to us every year before the Prefect of Ariege, whom we authorize to administer it. The things which the Andorrans have the right or permission to take from France without paying duty are: 4000 bushels of wheat, 120 bushels of vegetables, 1200 sheep, 60 bullocks, 40 cows, 200 hogs, 20 mules, 20 young mules, 30 horses, 20 asses, 1080 kilograms of pepper, 2160 kilograms of salt fish, 150 pieces of cloth, and finally all the iron ore needed to feed the forges of Andorre, and they may take it indiscriminately from the mines of Vicdessos and from the valley of Carol without subjecting themselves to any formality in the manner in which the Andorrans have enjoyed this privilege before and since the French Revolution." Under this decree a French *veguer* was appointed "with all the titles and powers of his predecessors." The ancient relations thus re-established between France and Andorre were confirmed by Lewis XVIII., and have been maintained since in all essential particulars.

The government of Andorre has remained essentially unchanged since the early days of the republic. The six parishes or districts of the Valley have been described as

forming "a little federal republic dependent on the bishop of Urgel in matters of spiritual jurisdiction;" and the inhabitants, with their limited needs, and their freedom from all political agitation, as presenting "the strange spectacle of a society of men, which has remained immovable, in spite of the civilization which surrounds it." The most important agent of public authority is the general council of twenty-four members. It is composed of two consuls and two counsellors from each parish or district, who are elected by the suffrage of the heads of families. Previous to 1866 the right of participating in the election had been confined to an aristocracy composed of the richest and oldest families, whose supremacy had been preserved by carrying out the principle of primogeniture. The consuls are elected in December of each year, and this election constitutes, in fact, the only participation of the people in public affairs, for it is from the consulate that are derived, as from a common source, all the political powers exercised in Andorre. To the twelve consuls there are added, making a part of the same assembly, twelve counsellors. The counsellors are persons who, having served as consuls for one year, continue to sit and vote in the general council, like the consuls who have succeeded them. This position they hold also for one year; and during the following year, the third after the date of the consular election, they bear the title of *Prohom-bres*, and are not eligible to election to the consulship again till after one year from the date of ceasing to be counsellors.

The functions of the general council are to act as the principal political authority, and also to take judicial cognizance of certain cases. It appoints all the employees and agents of the government, except the veguers, the bailiffs, and the judges of appeal, who are appointed by the suzerains. It may intervene in the administration of the parish council, and take cognizance of certain civil cases between citizen and citizen. It is expected, finally, to act in such a manner as to secure the general welfare of the Valley, the proper observance of the laws, and the conservation of the privileges and usages of the Republic. In all cases where the council acts in its judicial capacity, it is divided into



three sections. The first section is composed of six members, one from each district, and acts as a court of first instance. The second section is also composed of six members, and acts as a court of appeal for cases originating in the first. But if the parties are not satisfied with the decision of the second section, they may have recourse to a third section composed of the twelve members of the council not embraced in the first two. In the general council, as in the council of the parish, the voting is public. The general council assembles according to law six times a year, and in extra sessions whenever the *sindic* or the *veguers* consider that the business demanding the attention of that body is of sufficient importance to warrant an extraordinary meeting. The secretary of the council is usually the notary public of the Valley who is best informed as to the usages and customs of the country. He is also expected to have knowledge of the documents in the archives, which may be consulted with advantage in cases of difficulty.<sup>1</sup>

The consuls, the counsellors, and the *prohombres* of each parish, together with the owners of property, constitute a parish council, whose functions are to elect annually by a plurality of votes the consuls who are to represent the parish in the general council, to administer the affairs pertaining to the Communes, to collect the contribution called *quistia*, and to impose fines on those who have contravened the laws and the customs of the country.

If the general council may be called the legislature of Andorre, we may find the president in the *sindic*, and the vice-president in the second *sindic*. These officers are elected by the general council from the large land-owners and the most notable persons of the Valley. Besides acting as president of the general council, the *sindic* is also charged with the execution of the decrees issued by that body, and

<sup>1</sup> The archives are kept in the government house, the building in which are held the sessions of the general council. Access to the documents is difficult, inasmuch as they are kept behind seven locks, the keys of which are all different. The key which opens the outer door is held by the *sindic*. The inner door has six locks, and the keys are so distributed that the first consul of each district holds one. The concurrence of these seven persons is, therefore, necessary to grant access to the archives.

with representing it on all occasions. The *sindic* has not only the functions of a president, but also those of a secretary of state and of a secretary of the treasury. He issues passports and other certifying documents, and at the same time is the administrator of the public funds. These funds are at the disposal of the general council, and to this body the *sindic* makes an annual report, giving, among other things, an exact account of the sums which he has received. The *sindic* is, moreover, the general executive agent to whom one turns in case of having business to transact with the Republic. He is in a position to know at any time what business demands the attention of the general council, and is, therefore, empowered to convoke that body in extra session whenever he considers it advisable.

While the Valley acknowledged only one suzerain, the interests of this superior in Andorre were intrusted to a single officer who was called *Veguer*; but after the count of Foix had obtained part in the undivided suzerainty, each prince appointed a *veguer* to represent him in the Republic. In later years, after the rights of the count of Foix had passed to the throne of France, the king was accustomed to entrust this office to a French subject, but the bishop of Urgel selected as his representative a citizen of Andorre. The functions of the *veguer* are to be the commander-in-chief of the armed force; to exercise criminal jurisdiction; and to issue rules and decrees, between the sessions of the council, in order in any urgent case to preserve the peace and quiet of the Republic.

In entering Andorre to assume the duties of his office the French *veguer* is expected to traverse the Valley on horseback attended by an escort of his friends, the more numerous, the more satisfactory to the Andorrans, since by the number of his suite is supposed to be indicated the degree of consideration which he enjoys in his own country. As the representatives of the sovereign princes the *vegues* are expected, like their superiors, to have in view only the welfare of the inhabitants of the Valley. By reason of the high source of their authority, they enjoy a distinction to which no other officers of the Republic can pretend. This prestige

belongs more especially to the French veguer. He is a stranger, and visits the country only at long intervals, and his coming is a matter of general interest. On these occasions he quite overshadows his colleague of Andorre. The appointment of the French veguer is regarded by the Andorrans as an important event in the history of their affairs, and his installation is made an occasion of solemn ceremony. On an appointed day when it has become known that the veguer has arrived at the capital, the general council is assembled at the government palace. Two of the members are then sent to the house, where the veguer is entertained, to fetch him. "In the name of the council they kiss his hand, then, placing themselves, one on his right and the other on his left, they accompany him to the palace, with the suite of relatives and friends who have come to take part in the reception. In the antechamber of the hall where the deliberations of the council are usually held, the veguer is received by a second deputation of four members of the council, who conduct him at first to the altar, at the foot of which they kneel with him for a moment. He is then introduced into the hall of the council, where the first place, at the side of the syndic, is reserved for the representative of the sovereign prince. On his entrance all the members arise and remain standing with heads uncovered until he has taken his place on the seat reserved for him. When the whole assembly is seated, the veguer rises and presenting his credentials of appointment asks to be put in 'corporal and real possession of the charge and authority of veguer with which his prince has clothed him.' The syndic then responds, in the name of the council over which he presides, that he is ready to invest him with his charge and proper authority as soon as, in accordance with the example of his predecessors, he shall have sworn to respect and defend the privileges and customs of the Valley." The veguer then takes an oath on the Scriptures "to render good and loyal justice and to respect the privileges of the republic," after which "the syndic installs him in his new functions, at the same time time praying God to conserve them to him a long time for the greatest prosperity of the Valleys. The whole

company then passes into the neighboring hall, where all partake of a banquet, at the close of which the veguer is reconducted to the house where he has deigned to accept hospitality."<sup>1</sup> From this banquet women are rigorously excluded. Besides the newly installed veguer, those admitted are the friends who have served as escort, the veguer of the bishop of Urgel, the members of the general council, and the notary who is the secretary of the government.<sup>2</sup> This ceremony is had only on the installation of the French veguer; the veguer appointed by the bishop of Urgel, who is always a citizen of Andorre, is installed without ceremony. The aggressive attitude which Spain has at different times assumed towards the Republic may help to account for the greater deference paid to the appointees of France. Even the newly appointed bishop of Urgel, when he comes to make his first visit in the Valley, is not permitted to enter upon the territory till he has kissed the soil and taken an oath of fidelity to the constitution.<sup>3</sup>

The survival of a feudal right is seen in the exemption of the military force from all foreign service. As domestic disturbances seldom call for military interference, and as a foreign war is quite out of the question, the military duties of the veguers as the commanders-in-chief of the army are not burdensome. The principal function of the veguers is the administration of criminal justice, "in which their decisions, given simply according to their judgment and conscience, there being no written law, are final." Primary jurisdiction in civil cases belongs to the two bailiffs, who act as deputies of the veguers, but their judgments may be reversed by the civil judge of appeals.

The bailiffs are appointed, one by each suzerain, from a list of six persons proposed by the general council. They are appointed for periods of three years, the prefect of Ariège acting for France, while the bishop of Urgel makes the appointment directly for himself. The bailiffs have

<sup>1</sup> Vidal, pp. 93-97.

<sup>2</sup> Jaybert, "*Les Trois Petites Républiques*," p. 30.

<sup>3</sup> Jaybert, p. 31.



jurisdiction, in the first instance, in all civil cases; and they may execute their judgments, if within thirteen days neither party appeal to a higher court. They may impose fines, and also demand the aid of the armed force in any case when it appears to them desirable, or when this force is necessary to make their authority respected.<sup>1</sup> If the case before the bailiff presents any serious difficulties, as, for example, a decision on a right of property, it is customary for the bailiff to take advice from an advocate who is familiar with the customs of the Republic. Sometimes the question at issue is submitted for an opinion to four or five old men who are known for their probity and respect for justice. This feature of procedure, which is called "taking the advice of the ancients,"<sup>2</sup> involves a suggestion of the jury. An appeal from this court of first instance is taken to the judge of appeals. This officer is appointed for life by the suzerains alternately, and is usually a French or a Spanish lawyer. To this judge appeal may be taken, in all civil cases, from the decision of the bailiff, and if the litigants are not satisfied with this second decision, the case may be carried to one or the other of the two suzerains, who will immediately refer the matter to competent legal authority for a final judgment. The judge of appeals receives no fixed salary, but his charges, which are sanctioned by the customs of the country, are fifteen per cent. of the value in litigation, and this claim is satisfied "before the party who has won the suit is put in possession of the object of the dispute." Although the procedure of appeal is very simple, requiring only an act of the notary, the obligation to pay to the judge fifteen per cent. helps to deter appeals; and another difficulty is found in the fact that the judge does not reside in Andorre, and the expense of transferring the case to his residence in France or Spain has a marked effect in making the decision of the bailiff final; and these expenses appear all the more burdensome in view of the fact that judgment is rendered in the court of the bailiff without charge. But

<sup>1</sup> Dalmau de Baquer, p. 75.

<sup>2</sup> Jaybert, p. 44.

even from the decision of the judge of appeal the case may be carried one step higher. If it happen that the judge of appeal is French, the question at issue may be submitted directly to the president of the French Republic; but if the judge of appeal for the time being is Spanish, it may be submitted to the bishop of Urgel. Cases of final appeal to the bishop or to the head of the French state are very rare, and the method adopted for their settlement is indicated by the action of the French executive in 1821, when a case was referred to the court of appeal of Toulouse.

One of the peculiar institutions of Andorre is a court which assembles at the call of the veguer, in case of the arrest of a criminal who merits capital, or very severe punishment. The veguers write to the sindic informing him of the necessity of this meeting, and the sindic, having made the required arrangements, replies indicating the time and place for holding the court. This information is then passed to the bailiffs in order that they may go with servants, horses, and escort to fetch the veguer, to the frontier, if the veguer happens to be without the territory of Andorre, to his house, if residing within the Valley. An official communication is also made to the judge of appeals, the sindic appointing a commission to receive or accompany him, as the bailiffs receive and accompany the veguers. On the day appointed the court is opened. "The general council having assembled, the veguer and the judge of appeals are received on their arrival by a deputation appointed for that purpose, and accompanied to the place designed for them. Then the veguer addresses the assembly informing the council of the reasons which he has had for calling the court, asking that from this moment the court be declared open." The general council having acceded to this proposition, "the discussion begins on the points which have been submitted for the examination of the court, in the form prescribed by the law."

In connection with this court may be mentioned the institution of the *enrahonadors*. It has appeared to the Andorrans desirable to have in the court a representative of the Government "charged to interpose his mediation in favor



of the delinquents of whatever class, with the view to mitigate as much as possible the penalties whether pecuniary or corporal." Besides their office of defenders of the accused, the *enrahonadors* have the delicate duty of guarding the usages, laws, and privileges of the country from alteration "during the proceedings of a tribunal composed in its most influential part of persons foreign to the Republic."

If the penalties imposed by this court are fines, they are collected at once, and are used towards defraying the expenses of the trial. But if the sentence is for capital, or other corporal, punishment, it is announced with great solemnity. The *sindic*, the consuls, the counsellors, the bailiff, the judge of appeals, the *enrahonadors*, the notary, and the constables assemble in the council house, and pass to the plaza of the town of Andorre. In the plaza a large table is placed, with seats arranged in a square, so that places may be taken in the order of dignity which has been preserved in the hall of the council. The *veguers* summon the criminal who is introduced into the center of the august assembly. The secretary then reads the sentence in a clear and intelligible voice, and with this the condemned is placed at the disposal of the bailiffs, to whom is committed the execution of the sentence. If the sentence is for imprisonment, the *sindic* asks the Spanish authorities in Catalonia to receive the criminal into one of the prisons of that province; and these authorities from time immemorial have been accustomed to grant this request.

The time of the meeting of this court is taken by the bailiffs and judge of appeals for holding their civil tribunals; and the occasion has been found to have its advantages for litigants, in that the cases are likely to have a speedy settlement, and because the *enrahonadors* are present always using their influence to bring the parties to a friendly agreement.

Among the minor officers who figure in the administration are the notaries public, who are appointed by the bishop on the nomination of the general council, and whose business it is to certify to the validity of public papers. There are also

<sup>1</sup> Dalmau de Baquer, pp. 79-82.

*porteros*, or petty constables, who, besides their proper functions in the courts, have also to inform the consuls and counsellors when it is proposed to hold an extra session of the general council. And finally the *contadores*, or assessors, who are appointed by the general council, at least one for each district, and who are empowered to form an estimate of the property of the citizens which may serve as a basis for the allotment of the tribute, or *quistia*.

The military force of Andorre embraces in case of necessity all citizens residing in the Republic who are capable of bearing arms. For an effective army the government obliges as many as it thinks desirable to keep firearms in their possession and hold them in good condition, with a certain quantity of ammunition. The *veguers*, as already suggested, are the commanders-in-chief of this force, and they review it, either directly and in person or through their bailiffs, at least once a year. Those who fail to present themselves on this occasion, or who present themselves without arms and ammunition, are fined. In military affairs as well as in purely political affairs, the individuality of the several districts is recognized. Each district has one captain and two subordinate officers called *deners*. The inferior officers, that is, the captains and the *deners*, are appointed each year by the general council, and approved by the *veguers*. The military service which the Andorrans render, like that of most of the public servants, is without pay. Those, however, who are called for the prosecution, capture, and custody of delinquents, are paid out of the property of the condemned, if they have any. In view of the fact that the service is gratuitous the government has aimed to make the terms of service as short as possible, in order not to interfere to the disadvantage of the citizen in the conduct of his private affairs. "In any case of urgency, the *sindic*, the bailiffs, and even the consuls and counsellors may ask the aid of the armed force, especially if it is a matter of making their authority or the orders of the council respected, or to minister on any occasion to the public security."<sup>1</sup>

<sup>1</sup> Dalmau de Baquer, p. 69.

In the financial as well as in the military organization the parish, or district, preserves its individuality. In each district there is at least one officer whose business it is to make a census of the owners of property in the district, of the harvests which they gather during the year, and of their profits by agriculture and commerce. The data thus obtained are deposited with the secretary of the general council; and on the basis of this census is made the allotment of the annual tribute or *quistia*, of which France has been accustomed to receive 960 francs, and the bishop of Urgel 450 francs, together with a quantity of ham and chickens. The sums are collected from the owners of property in the ratio of their harvests for the year, and of the number of cattle raised. Any surplus remaining after the payment of the tribute to the suzerains, is turned over to the treasury of the district, and is consolidated with the revenues from other sources. The government of each district, administers its own revenues; and the several districts coöperate to form a fund which the *sindic*, the president of the general council, administers and uses to meet the expenses of the government of the Republic. The expenses involve the repair of roads, the maintenance of the consuls, counsellors, and other employees of the council, "who during the sessions live in a kind of community" at the government house, and certain extraordinary outlays for such items as the posts, journeys, and judicial proceedings. From this fund also the general council pays a certain sum as a subsidy to physicians, surgeons, and apothecaries, obliging them to live at certain designated places in the Valley, and not to take from the citizens whom they serve more than certain specified moderate sums as fees or prices. All others who serve the Republic in a political or an administrative capacity receive no salary or compensation save their maintenance during the time of their service, and the honor which thereby comes to them and their families. It is one of the duties of a good citizen of Andorre not to shun personal sacrifice, when by it he may enhance the common weal.

<sup>1</sup> Dalmau de Baquer, p. 63.



In matters of religion the Andorrans have held strictly and solely to the Roman Catholic faith. The parish priests are regarded as the vicars of the bishop, and they receive from him a modest stipend. In addition to this they enjoy the products of various pious foundations. In the several parishes there are also other priests who are nominated by the community and confirmed by the bishop. These are paid by the people out of the public revenues. And a few appear to occupy a special position and draw their meager support from both taxes and pious foundations. In addition to his other duties the priest is expected to keep a free primary school for boys, but his instruction is confined to a limited curriculum, not extending beyond reading and writing. Those destined for the priesthood carry on their studies at Urgel, and a few are received gratuitously at certain schools of the church in Toulouse. It has, moreover, been customary, by a special privilege of the French government, to have five or six instructed and lodged gratuitously in the colleges of Foix, Tarbes, and Toulouse.<sup>1</sup>

The people of Andorre appear never to have grown away from the mediæval attitude of loyal and dependent vassals. They have been accustomed to send a deputation to congratulate the bishop of Urgel on his election, or the king of France or the king of Spain on his accession to the throne; and they have always stood ready to receive the king of France "with all the decorum and demonstrations of joy of which that simple people were capable." And the reception of the bishop, whenever he has visited the Republic, has been an affair of great ceremony. The time of his appearance at the frontier having been fixed, the syndic convenes the general council, and invites all the most notable persons of the country to present themselves mounted, in order to take part in the reception of the bishop. At the appointed time, the bishop attended by the most distinguished escort his city can furnish appears at the place of meeting, and is there received by the cavalcade from the Valley, including the syndic, the members of the council, all

<sup>1</sup> Jaybert, p. 51.

the dependents, and the invited notables, each member being attended by two servants armed with a carbine and two pistols. In these groups somewhat of the picturesqueness of the middle ages has survived till our day. At the meeting the *sindic* steps forward before the bishop, kisses the ring, and salutes him with a brief discourse suited to the occasion. Each member of the council then advances to salute the bishop, and retires to his post. In the meantime the armed servants are assembled a short distance away on the road to Andorre, and perform their part in the salutation by discharging their carbines and pistols. This ceremony ended, the bishop surrounded by the authorities of the Republic, takes up his march to the capital, during which from time to time the escort continues its firing, and the reports re-echoing through the narrow defiles of the mountains announce to the solitary herdsmen the extraordinary events of the day.

At a place near the town of Andorre an altar has been prepared, on which the pontifical vestments, sent beforehand, have been placed. Here the cavalcade halts, and the riders dismount. The bishop puts on his robes of office, and receives the cross from the hands of the parish priest of the capital, who, at the head of the clergy and an armed force, has come to hail and welcome the potentate. From this point the bishop and his followers move on to the church as a religious procession, singing the *Te Deum*, amidst the ringing of bells and the discharge of firearms. At the church door the bishop pronounces his benediction on the people and those who have followed him, and then passes into the church to celebrate mass. From the church he is conducted by the *sindic* to the government house, where he takes his seat on a throne that has been erected for him. Here an orator chosen for the purpose salutes him and congratulates him once more, asking him in the name of the council which represents the Republic, to confirm their privileges and to take the oath not to infringe them and to maintain them in full force. The bishop then makes the required promise, and takes the oath in the usual terms. The ceremonies of the day are ended with a state banquet, which is attended

by the bishop, the authorities of the Republic, and the invited notables. At the close of the banquet, the *sindic* places before the bishop an ancient cup filled with Spanish coins, and begs him to receive it as a slight token of the submission of the Andorrans, at the same time expressing the wish that His Highness may not consider the smallness of the sum offered, but only the good intention of those offering it. The bishop thanking the *sindic* for the gift, returns to him the money with the charge to devote it to the relief of the poor of the Republic. This last act closes the feast, and is greeted without by a final discharge of firearms.'

In spite of the obligation imposed upon the parish priest to keep a school for boys, school instruction has never made a large figure in the life of Andorre. Forty years ago a writer touching on the subject of education among the Andorrans said that they neither had it nor desired to acquire it; that in a hundred men there was scarcely one who knew how to read and write, and among five hundred women one who was able to read a letter. At that time the Andorrans argued that as they had governed themselves thus far without being more learned than they then were, they would also be able to do it in the same manner in the future; and they pointed to the fact that no other country in Europe could be governed as was Andorre by twenty-four men who formed its general council or senate, among whom scarcely a fourth part knew how to read. Since that time some improvement has unquestionably been made, nevertheless four decades in Andorre are as a year in the sight of the progressive world, and illiteracy is still the rule.

Besides serving as members of the general council, the two consuls constitute a part of the local government of the parish. They are assisted by twelve councillors, who, as well as the consuls, are elected annually. "There exists also, for each parish, an officer called *mostasa*, who exercises supervision over the meat markets and taverns, and tests the accuracy of the instruments of weight and measure. The consuls and councillors have in charge, in their respective

<sup>1</sup> Dalmau de Baquer, pp. 85-89.



parishes and under the control of the general council, the affairs of administration and police. They receive the taxes, regulate the employment of the communal revenues, determine the use of the common pastures, and supervise the maintenance and repair of the roads and public buildings. The jurisdiction of these assemblies extends to contests concerning all the affairs which they have the right to regulate." But for certain purposes even the parishes are divided, and these divisions are called *cuarts*, quarters, or wards. There are different numbers of wards in the different parishes. In San Julian there are four; in Andorre, two; in Canillo, eight; in Masana, six; in Ordino, five; but the parish of Encam is not divided. In some cases each ward has its particular pastures, but in other cases, even where the division into wards obtains, the public pastures are enjoyed in common by the whole parish. In still other cases, where there is a division into wards, the use of some of the pastures pertains to the several wards, while other lands are common.

The public authority in the ward is vested in a body composed of the heads of the families of each ward, and the meetings of this body are generally held under the presidency of one of the consuls of the parish. Their deliberations have only a limited range, dealing with the proper use of the pastures, the common revenue, and the collective obligations of the inhabitants, such, for example, as the maintaining of the roads and bridges in a proper condition. But as there are no roads in the Republic intended for wagons or carts, and no wagons or carts, in fact, and as all traffic is carried on on the backs of mules or horses, the labor and expense of maintaining ways of communication are at the minimum. By the easiest route into the Valley from the side of France the way for a large part of the distance is no more conspicuous than a cowpath in an ordinary mountain pasture. But the entrance from Spain and the lines of travel in the Valley are well-worn bridle paths, which at a few points pass over substantially built stone bridges.

<sup>1</sup>Bladé, "Études Géographiques sur la Vallée d'Andorre," p. 77.

The fact that there is no record of an official survey of the lands of Andorre makes it difficult to render a statistical account of the different amounts of land put to different uses. By far the larger part of the Republic is made up of mountain sides which at best can be used only for grazing. The lower slopes and the few level places along the streams are largely occupied with meadows which produce hay for the winter support of the cattle that range over the mountains in the summer. The small area which is cultivated is used for raising rye and other products which are demanded as food for the inhabitants. The fact that Andorrans have regarded themselves as politically independent and have felt that the Valley was their country, has not been without important influence on their economic affairs. Patriotism has attached them to their native soil, and helped to retain in the Valley a larger population than would have attempted to maintain itself here, had not this sentiment existed. On this account the pressure of the population on the means of subsistence which the country is able to yield has been greater than it might have been, had Andorre been simply an outlying district of France or Spain. The political condition has helped to determine the economic and general social condition. To increase the means of subsistence, cultivation has been pushed on to soil naturally non-productive. Retaining walls have been constructed, and by a system of terraces the area of cultivation has been gradually extended up the sides of the mountains, thus illustrating the fact that, from the point of view of economics, land belongs to that list of commodities which may be increased in amount in obedience to the force of an increased demand.

Studying the institutions of the little republic in the presence of the inhabitants engaged in their daily occupations, one is moved to inquire concerning the significance of these institutions with respect to the welfare of the people. The inhabitants of Andorre have been practically independent for a thousand years, and their independence has given them a sense of their own importance which they would not have had as denizens of a remote valley under the dominion of France or Spain. They live in isolation

on the soil in which repose thirty generations of their ancestors, and this gives to their patriotism a strain of piety; but they are wanting in that uplifting sentiment which arises from the consciousness of belonging to a great and powerful nation. In the presence of their long unbroken record they have kept the conditions of the past as their ideal. They represent a society in which the advance of time has brought small increase of wants, and few suggestions of social changes. With them government activity has remained at the minimum consistent with social order. Their government does less and costs less than that of any other civilized state, and yet peace and order have been maintained. Inasmuch as they would feel immediately any burden which they might impose for the support of public works or public institutions, they have hesitated to carry on such works or raise considerable sums for the maintenance of institutions. They have, therefore, remained without roads, without important schools, and without many of those appliances by which social development is carried forward in a great nation. Had they been a part of France, they would have had roads in spite of themselves, and the effects of the comprehensive school laws of France would have been manifest even in their mountain fastnesses. They would have been drawn from their isolation, and dragged along the course of change by the progressive force of the great nation. The fine road which leads over the Pyrenees from Aix into Spain runs along near the eastern side of Andorre, but nowhere enters upon its territory. In this is a suggestion of the fact that, whatever has been done in the way of improving material and intellectual conditions by the collective wealth and energy of France, has extended to the borders of the little republic, but has scarcely affected the civilization within its limits.

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## THE UNREST OF ENGLISH FARMERS.

TEN years ago, the rural unrest in England was confined to the agricultural laborer, and the problem which was then presenting itself was how to keep the laborers in the country, and to stay the movement to the towns. Despite the widening of the Parliamentary franchise in 1884, the establishment of a democratic system of county government in 1888—both measures conferring new political privileges on the laborer—and in spite of legislation establishing a system of allotments and freeing elementary day-schools, the problem of the rural laborer is pressing as ever. For the present, however, the unrest among the laborers is overshadowed by an unrest among the tenant farmers, the like of which has never been witnessed before in England. There were periods of agricultural depression in 1879 and again in 1886; but neither of these depressions equalled in its wide-spread character and intensity the depression which has prevailed through the last two years. An agitation among farmers so serious and so general as that which manifested itself after the general election of 1892 and which has been vigorously continued through the present year, is unparalleled in England. There have been periodic cries of depression in the past from the purely agricultural counties of the east and south, especially from those which were formerly famous as wheat growing counties; but Wales, Lancashire, Yorkshire, Westmoreland, Cumberland, Durham, and Northumberland, where dairy and truck-farming chiefly occupy farmers, have hitherto escaped the depression which has prevailed in the south and southeast. In the last two or three years, however, Wales and the northern counties have come within the area of depression. They have suffered almost as much of late as the counties to the south of them, where, if times were worse, rents were much lower, and it is owing to this extension of the depression, that the present agitation has assumed national proportions.



The stages of the agitation are easy to follow. They go back only to the autumn of last year. There had, of course, been murmurings and complaints before that time even in the north of England; but it was only in October that the first steps were taken, which led to the National Conference held in London on the seventh and eighth of December last. This conference had its origin in Lancashire and Cheshire, and owed its existence to the Lancashire Farmers' Federation. For some months before it was held, there had been frequent meetings of farmers' organizations of the two counties, at which the crisis had been discussed. Where the farmers were not fettered by the presence of the landlords' agents, they had not beaten about the bush in discussing the causes and the remedies for their troubles.

They had attributed the depression principally to foreign competition and the consequent low prices for almost all descriptions of farm produce, and to rents and conditions of tenure, in the settlement of which increasing foreign competition had not been taken into account. Wet and disastrous seasons and the increasing local taxes which have followed in the wake of the Elementary Education Act of 1871, and the County Government Act of 1888, were also put forward as contributing causes, but at nearly all the North of England meetings prior to the London conference, the greatest stress was laid upon the question of rent. It was insisted that, in view of the extent of the foreign competition in the market for wheat and live stock, a re-arrangement of rents was absolutely necessary. It was freely admitted at these meetings of farmers, that foreign competition was a permanent factor in the situation. Here and there, generally when a landlord was in the chair, there were hints that a return to protection was desirable; but at most of the meetings exclusively of tenant farmers it was conceded that it was utterly hopeless to look forward for any return to protection. Under these circumstances, the general demand of the farmers was that landlords should meet the altered conditions by permanent reductions in rent. In the North of England, farming rents range from £1 to £2 per acre, and the tenancies are on yearly agreements. On many estates, it has been the prac-

tice of the landlords in bad years to make reductions varying from five to twenty per cent. These reductions have been welcome enough to the tenant farmers, and have aided them in tiding over unusually bad seasons. They were not ignored at the farmers' meetings; but there was a tendency to deprecate reductions made in this way on account of the uncertainty attending them and the eleemosynary spirit which almost of necessity characterized them.

This was the tone which marked the meetings of the North of England farmers in the autumn and early winter of last year. As these meetings followed each other, the feeling grew that, if anything were to be done, and if the aid of Parliament were to be invoked, a national character must be given to the movement. The Lancashire Farmers' Federation, which is now exclusively composed of tenant farmers, accordingly took the initiative, and began to arrange for a conference to be attended by representatives, not only from the North of England, but also from all parts of the country. The idea was first to hold the meeting in Manchester. But there was unrest in the farming community all over the country, and the scheme for a national conference soon became too large to be conveniently handled from Manchester. At least, so thought the Lancashire Federation; and the arrangements for a national conference were turned over to the Central Chamber of Agriculture in London. This is an old established organization, consisting of chambers of agriculture all over England, which are affiliated to the Central Chamber, and send representatives to its periodical meetings in London. These local chambers of agriculture differ from the farmers' clubs, as their membership includes landlords and land agents as well as tenant farmers. In regard to some of them, it is admitted that the landlord interest is much in the ascendancy; and in some parts of the country, tenant farmers hold aloof and look upon the chamber of agriculture with something akin to distrust.

The Central Chamber in London readily took over the movement, which the tenant farmers of Lancashire had started, and issued the call for the National Conference. The call was readily responded to, especially by the land-



lords, who realized that something was moving and desired to have their part in it. After the Lancashire Federation had turned the organization over to the Central Chamber, the Lancashire men seem to have lost all control and to have had no voice whatever in the preliminary arrangements for the conference. Mr. James Lowther, a Tory Member of Parliament and an avowed protectionist, was chosen as chairman, and for all practical purposes, the conference was a landlords' and not a tenant farmers' meeting. The landlords were in full possession at the first meeting, and when it came to passing resolutions, embodying the opinions of the conference, they carried matters with a high hand, and little, if anything, so far as resolutions went, was heard of the remedies for the depression, as they had been discussed by the tenant farmers in the North of England to whose initiative the London conference was due.

As has been shown, permanent reductions in rent had been the principal subject canvassed at these meetings. There was, however, no mention of rent in any of the resolutions which were carried at the conference. Instead of reductions of rent and easier and more modern conditions of tenure, protection and bimetallism were the subjects discussed at the first of the two days' meetings in London. The most important resolution passed was one which attributed the depression to "the unfair competition of untaxed foreign imports with home produce and manufactures," and expressed the opinion that "all competing imports should pay a duty not less than the rates and taxes levied on home productions." This was undoubtedly a resolution in favor of a return to a protective system. On this ground it was opposed in the conference. An endeavor was made to carry an amendment setting forth that it was undesirable to introduce the question of protection; but the landed interest was too strong, and the protection resolution was carried by an overwhelming majority. Those who voted for it knew, as well as the tenant farmers' representatives from Lancashire who voted against it, that a protective system in connection with food imports was now impossible in England, that agricultural rents can never again be maintained

on an artificial basis by means of protection; but the resolution served the purpose of those landlords who desired to turn the agitation in any direction but against rents, and who were dreading land legislation in England on the lines of that which has been passed for Ireland. When this resolution had been adopted, many of the landlords had no further use for the conference, and did not trouble themselves to attend the second day's meeting.

Two days later, Lord Derby, who is one of the largest owners of urban and agricultural land in England, pointed out the impossibility of a return to protection. "It is neither my right nor my wish," wrote Lord Derby to the editor of a Welsh newspaper, "to offer advice to Welsh farmers; but you are safe in telling them that a return to protective duties, such as the farmers' gathering in London seems to desire, is in a country like ours a mere impossibility and not worth serious discussion." The tenant farmers who were at the London meeting, especially those from the North of England, were as quick to realize the utter uselessness of the protection resolution as Lord Derby. They saw that they had been out-manceuvred by the landlords at the London meeting, and in their local meetings repudiated the protection resolution and made arrangements for continuing the agitation on a tenant farmers' platform.

The only resolution at the London Conference which at all touched the farmers in their relations to the landlords, was one which was carried on the second day. It called for an amendment of the law relating to the tenure of land, so as to provide (1) An absolute and indefeasible right on the part of the tenant to the unexhausted value of any agricultural improvement executed by him on his holding; (2) The abolition of the law of distress for rent; and (3) The equal division of all local rates between owners and occupiers.

As regards the first point, as the law now stands, when a tenant is leaving a farm, he is entitled to compensation for improvements he has made in the soil. He enjoys this right under the Agricultural Holdings Act of 1883; but it has long been contended that this act works unjustly

towards the farmer, because in assessing compensation account is not taken of the sums actually expended by the outgoing tenant and the measure of benefit he has had from these expenditures, but the whole question of what is to be paid to him is determined by the value of the improvements to the tenant who is succeeding him. This mode of settlement, the tenant farmers complain, works against outgoing tenants every time. As regards distress for rent, under the existing law, the landlord has a prior claim, whenever a farmer is in financial difficulties, and the amount due for rent has to be met, before any of the other creditors come in for a share of the estate. In this way, a tenant farmer is at a disadvantage in dealings with tradesmen. As long as he can pay cash, he is as well treated as any other cash customer; but when he is in need of credit, it is complained that he has to pay more for the accommodation on account of the landlord's preferential claim. In connection with the third point—the division of the rating—all that need be said is, that occupiers in England, not only of land but of tenements of all kinds, are always called upon to pay all the local taxation. The tenant farmers have not laid much stress upon this point, owing to a feeling that, if these local charges were divided between occupiers and owners, in the long run owners would succeed in putting their share on the shoulders of the occupiers.

This resolution did not go nearly far enough for the North of England tenant farmers. Their idea is that the "true remedy for the distressed condition of those engaged in the cultivation of the land will be found in the adoption of the three F's, viz: fixity of tenure, fair rent, and free sale of tenants' improvements." These demands were embodied in a resolution which was offered as an amendment to the one already quoted; but the conference would have none of it. It was altogether too advanced for a meeting under the auspices of the Central Chamber of Agriculture. From the tenants' point of view the conference was a complete failure, as the only resolution at all in their favor or directly on the lines of the agitation they had been conducting, fell short of what they regarded as adequate and as offering any



ground for the settlement of the points on which they are at issue with the landlords.

One of the most remarkable features of the conference has, however, still to be described. It has taken the form of a scheme to establish an Agricultural Union, composed of persons of whatever class who are interested in the land. The idea is due to Lord Winchilsea who, for weeks after the conference in London, stumped the country in behalf of one of the most Munchausen-like schemes which have ever been put forward. As explained to the conference, the idea of the new union is, (1) To give effect to such resolutions as may be passed unanimously by the conference; (2) To frame such measures as may be from time to time needful in the agricultural interest; (3) To organize its members into a compact body of voters in every constituency, pledged to return, without distinction of party, candidates who agree to support such measures; (4) To promote the coöperation of all connected with the land, whether as owners, occupiers, or laborers, for the common good.

At the conference, and in numerous subsequent speeches and interviews, Lord Winchilsea disclaimed any idea of protection in connection with the Agricultural Union. But if protection were not his idea, it is almost impossible to discover what could be the purpose of the Union. About the only point on which the landlords, the tenant farmers, and the laborers are agreed, is that agriculture in England has never been in a worse state than it is just now, and that under existing conditions there is little likelihood of any permanent improvement in prices. Many of the landlords realize that, for all practical purposes, America and Canada have now been brought alongside England, and that the staple food products of the American continent must henceforward have a free way into the English markets. They realize all this, and realize also that it is hopeless ever to expect that tariffs will be adopted in England in order to give other than an economic value to the farming lands of the country. It is only those landlords who shut their eyes to these facts, who have any hopes from legislation. All legislation except in the direction of protection, from the very nature of things, must adversely affect their interests.

The tenant farmers are much clearer than the landlords upon this point. Again and again in their local meetings, held since the London Conference, they have repudiated the idea of protection, and have adopted as their platform the demand for fixity of tenure, fair rents, and free sale of the tenants' improvements, coupled with the demand for a land court for the settlement of rents and other questions arising between tenants and landlords. The idea of Lord Winchilsea's Union is that the interests of all three classes concerned in farming are identical, and that landlords, tenant farmers, and laborers are all involved in the present crisis. These three classes may all be interested in the land; but matters have now reached a point at which the landlords' and the tenants' interests are antagonistic. There is no questioning this. Reductions in rent and more favorable conditions of tenure are the only salvation for the farmer, and, to meet him on these points, the landlord will have to make substantial and permanent concessions. It is the fear that the landlord will not so meet him, which is impelling the tenant farmer to follow the example of the Irish farmer and to press his claims upon Parliament. To this end, the more radical farmers' organizations have altogether dissociated themselves from the landlords, and it is because they know that at this crisis the interests of the tenants and of the landlords are not identical, that these same organizations have stood aloof from Lord Winchilsea's Agricultural Union.

It was never possible to see how the rural laborers could be expected to associate themselves with the union. Lord Winchilsea's idea was that the laborers' representatives were to sit in council with the representatives of the landlords and of the tenant farmers, and at election times the laborers were to vote for the candidates of the agricultural party. To induce the laborer to come in, Lord Winchilsea proposed a sliding scale for laborers' wages, under which the wages of a day laborer were to move upward with the upward movement in the price of wheat. But the laborers were shy of the scheme. For generations past in the purely agricultural districts of England, the laborers have been and are now working for a wage which is only sufficient to keep



body and soul together—for a wage which permits of their making absolutely no provision for sickness or old age. It would be next to impossible, if they are to work at all, for their wages to slide below the present level, and although the rural laborer in England does not understand much about politics, he is wide awake enough to know that, when his interest is sought for a scheme like the Agricultural Union, his vote is wanted afterwards, and he is dubious about all schemes emanating from landlords, which, if they are to go through Parliament at all, are to go through by the aid of his vote.

The rural laborer is already on the side of the Radicals. He is the backbone of the Radical Party in rural England, and if the tenant farmers are really looking to Parliament for a measure establishing a land court and embodying their other demands, at the polls they will have to part company with the landlords, as they did on the protection resolution at the London Conference. Hitherto, and increasingly since the Reform Act of 1834 gave the franchise to the rural laborers, the tenant farmers have voted with the landlords, and for the Conservatives. They cannot hope for the three F's from the Conservatives; they cannot build up a really strong and independent farmers' party in the House of Commons, but they can follow the example of their laborers and vote for the Radicals, and it will be only from the Radicals that they can obtain such a drastic reform of the land laws as will enable them to begin to meet the conditions which the extent and permanence of foreign competition in food products has brought about.

Free trade in food stuffs must be permanent in England. There is now no help for it, and the landowner will have to make up his mind either to meet these conditions or to have his tenantless farms thrown upon his hands. English farm laborers cannot work for less wages than they are now receiving; for, as it is, in the long run the wage has in most cases to be supplemented by Poor Law relief. English tenant farmers cannot go on working hard only to pay impossible rents. Much of the farming land in England is now of no greater value than farm lands in the Western States.

This is a disagreeable fact for English landowners. They have been a long time in realizing it ; but now the new conditions have to be faced. This is the lesson of the present crisis in English farming, and much of the inconvenience and loss attending the rearrangement which will soon have to be brought about, if not voluntarily, then by the interference of Parliament, must inevitably fall upon the landlords.

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## AN ATHENIAN PARALLEL TO A FUNCTION OF OUR SUPREME COURT.

**M**R. BRYCE remarks that "no feature of the government of the United States has awakened so much curiosity in the European mind, caused so much discussion, received so much admiration, and been more frequently misunderstood, than the duties assigned to the Supreme Court and the functions and charges in guarding the ark of the constitution." (Am. & A. I. p. 237.) The same causes that have led the European mind to misunderstand some of the functions of that court have prevented due recognition of the close analogy between those functions and the part borne in the Athenian constitution by the *γραφὴ παρανόμων* or action for unconstitutionality. The parallel, though not exact, is a striking one. If our court is worthy of special admiration as an institution for guarding the constitution from violation, then we may certainly take it as a mark of extraordinary political genius, that the Athenians so early contrived a similar bulwark of their constitutional democracy.

The mode in which the question whether a law is constitutional or not is brought before our courts is well known to all Americans. The principle on which the court renders its decision, so often misunderstood by foreigners, is well stated by Mr. Bryce in terms like the following. We in the United States recognize in our laws four different grades, of different degrees of authority. These are (1) the Federal constitution, (2) Federal statutes, (3) State constitutions, (4) State statutes. Law of a lower grade is invalid, and no law, if found in conflict with law of a higher grade. The Federal constitution was ratified and made binding, not by Congress, but by the people acting through conventions assembled in the several States. Neither Congress nor any other power, save the people themselves, can alter it in the smallest particular. And the people themselves may amend or repeal its provisions only under the restrictions

they, or rather now their predecessors, imposed upon such action. But suppose Congress, or the framers of a State constitution, or a State legislature, oversteps the limits imposed by the fundamental law. In that case the statute or the provision of the State constitution so transgressing is null and void. All this is familiar doctrine. Equally familiar, as was said before, is the manner in which the question is settled, whether the Federal constitution is or is not violated by the statute in question. Some one who doubts the validity of the new law resists the enforcement of it upon himself. In deciding the individual case, the Supreme Court—supposing that the case eventually comes before that court—of necessity decides by implication, whether the statute was valid or not. Mr. Bryce carefully notes, and the matter is of some importance for the case in hand, that there is here no conflict between the judicial and the law-making power. The court merely secures to each kind of law its due authority. The relative strength of each kind of law has been settled already. All the court does is to point out that a conflict exists between two laws of different degrees of authority. Then the question is at an end, for the weaker law is extinct.

Turning now to Athenian law, where do we find the parallel? The *γραφὴ παρανόμων*, briefly, was a public action, which any full citizen might bring for the purpose of annulling a *ψήφισμα* or *νόμος* alleged to be in violation of any *νόμος* still in force. Within one year of the date of the passage of the law or decree this action would lie against the proposer himself. The action was one of the *ratable* suits; that is, the author of the *νόμος* or *ψήφισμα*, if found guilty of proposing an unconstitutional measure, was liable to the penalty advocated by the accuser, unless the convicted man could persuade the court to adopt the milder penalty which he himself offered as a substitute. The penalty might therefore be a severe one. After the lapse of one year the author of the measure could no longer be personally attacked, but the measure itself was still open to question by a suit of the same kind. Whether the person of the proposer, or the law or decree alone was attacked, the success of the accuser

carried with it as of course the annulment of the law or decree. That is to say, the νόμος or ψήφισμα was found unconstitutional, παρὰ τὸν νόμον, and therefore null and void. The unconstitutionality of the ordinance or statute might consist either in its content or in some informality of procedure. Any ψήφισμα, if opposed to an existing νόμος, was unconstitutional in its content. So also if a new νόμος was opposed to a previous νόμος not yet repealed,—for example, if made retroactive. Again, if in any respect the course legally prescribed for the proposal and adoption of ordinances or laws had not been duly observed, this informality rendered the measure void. Such a case arose, for example, if an ordinance of the Assembly was ἀπροβούλευτον, that is, had not been introduced by a resolution of the Council; or if a νόμος had not been proposed at the proper time and advertised in writing at the proper place, by the statues of the eponymous heroes. A defect either in content or in form, then, much more in both, if recognized and declared by the court, rendered the ordinance or law null and void.

In order to appreciate the points of likeness and of difference between the γραφή παρανόμων and the function of our Supreme Court referred to, we must first have a clear idea of the Athenian conception attached to some of the terms that have been used. The phrase παρὰ τὸν νόμον is translated *unconstitutional*; but in what sense is the term constitution employed, that is applicable to the case in hand? In several important particulars, it is true, the Athenian constitution may be described in the same terms as that of Great Britain. There was in one sense no such thing as a constitution apart from the rest of the law. There was merely a mass of law, in conformity with which the government was carried on. This consisted partly of customs and accepted usages, partly of a written code of νόμοι. The latter were very heterogeneous in character, some prescribing the duties of magistrates, others laying down personal rights, others containing legal principles of a general nature, etc., but all had in common the characteristic that they had been ratified in written form by the representatives of the people, and were published and readily



accessible. The likeness to the British constitution consists in the fact that no portion of the law was marked off from the rest and known by a separate name; it is the entire mass of νόμοι, including some that were merely customary, which in some aspects may be called the constitution, in the English rather than the American sense. On the other hand the Athenian constitution approached nearer to our own in two respects. First, *all of the constitution which could come under consideration in the action for unconstitutionality* was in the form of a written code. Nothing had to be gathered from precedents merely or from custom alone. An Athenian who brought an action for unconstitutionality was required to point out in the code that particular νόμος which the measure was alleged to transgress. He had to show that a conflict existed between a standing νόμος and the measure attacked; if he did that to the satisfaction of the court, the newer measure was extinct. Secondly, the manner of revising and amending the Athenian constitution was in principle more nearly American than British. In Great Britain, since no provision of the constitution is anything more than an ordinary law, and since Parliament is the law-making power, Parliament can by a new statute annul or amend at will any article of the British constitution whatever. No court can declare unconstitutional any act of Parliament, for the simple reason that there is no difference in authority between one statute of Parliament and another, except that the later act supersedes any conflicting one of earlier date. "Parliament is deemed to be the people. The whole nation is supposed to be present within its walls." Therefore it "can abolish when it pleases any institution of the country." Now in Athens, too, the Assembly was deemed to be the people. The whole nation was supposed to be present at its sessions. Yet the whole people so assembled could not change a single written νόμος in the smallest particular. Here is a fundamental difference between the British constitution and the Athenian; the noticeable thing is that the advantage of conservatism is on the side of Athens. It is true that in Athens the supreme law-making power was the people. But that supreme law-

making power, acting in a certain way, upon some definite occasion, bound itself, just as the American people has bound itself, as regards future legislative action. It laid down for itself an elaborate system of procedure for the amendment of its laws. That procedure was briefly this. First the question was raised in full assembly, whether a revision of the laws was needed. If the assembly voted yes, then the advocate of a particular amendment was accorded permission to appear before the Boulé, the working committee of the Ekklesia. If that committee approved the proposal, this was posted, together with any old law to be by it abrogated or amended, where all could examine them. Then in the third assembly after the first proposal was made the people voted whether they would or would not proceed farther with the business. If it was voted to proceed, then the people chose *συνήγοροι*, or advocates, whose duty it should be to defend the existing and attack the proposed law before an especially convened court of *νομοθέται*, a court of varying numbers, 501, 1,001, or more, chosen from citizens thirty years old and over. At the same time any citizen might appear before this court of *νομοθέται* to argue against the change, which was thus put upon formal trial. This court, a large and representative body of the maturer citizens, under the sanction of a special oath, made the final decision. An important point in the procedure is that the later stages were enacted by a different body from that which originated it, and by a more conservative body, proceeding according to forms more conducive to deliberation and delay. The people remained bound by its former action in law-making, until, proceeding in this constitutional order, it should release itself. In the meantime it could not, acting in the Assembly, or Council, or in both, transgress its own rule. Any ordinance or law contravening this rule was *ipso facto* null and void. So characteristic a limitation upon the freedom of amendment gives to that portion of the Athenian law a likeness, in a most important feature, to a modern written constitution. The infrequency of ancient legislation is in harmony with this view of the Athenian conception. During the period of developed democracy the

Athenians regarded the body of νόμοι as a code of fundamental law, framed by the wisdom of men of old, handed down to them from their fathers, consecrated by blood and treasure spent in its defence. Such an instrument was not to be lightly changed; the presumption was that its provisions were both wise and sufficient; the advocate of a change must prove his case amply. That is substantially the popular view of the constitution under which we live; and the frequency with which amendments were made in Athens, though greater than is the case with our Federal constitution, bears no comparison to the flood of modern statute laws. On the whole the Athenian code stands much nearer to the United States constitution than to a modern statute-book, and nearer to our own constitution than to that of Great Britain.<sup>1</sup>

And the γραφή παρανόμων was the engine whereby any citizen might enforce upon the Demos, through a somewhat select body of citizens acting as a court, the restriction which the Demos had previously imposed upon itself. The doctrine that it was not the Demos, nor the Boulé, but the original proposer, who was responsible and reprehensible for the unconstitutional measure, was a bit of legal fiction that served an excellent purpose, making it easier for the people to retreat gracefully from an illegal position. It was a good side to that flattery of the multitude which is perhaps, as Sir Henry Maine thought, inseparable from popular government. If wrong was done by the people, the fault was held to lie with their wicked advisers.

We are now in a position to sum up first the differences, and then the resemblances, between the two institutions under consideration.

First, there is a difference in the character of the action. The γραφή παρανόμων was a public suit. The term δημοσία δίκη is not always, nor at any time in every particular, equivalent to our term criminal suit; but in this case it would be in no essential point misleading to say that the Athenian action was primarily a criminal suit, directed

<sup>1</sup> So also Tarbell, *ἑρμηνεία* and *Νόμοι*, *Am Jour. Philol.*, x. p. 82.



against the person of one who had committed wrong against the State, against society at large. If the legal limit of a year had elapsed, the criminal was no longer personally amenable; but in every other respect the action remained the same. The wrong was of such a nature that it could be for the future undone; the essential character of the suit was not changed by the fact that the wrongdoer himself received the benefit of a wise statute of limitations. In our court, on the contrary, the suit may perhaps be a criminal one, but can never be directed against the person who is, or is assumed to be, responsible for the unconstitutional law. In the majority of cases the suit which involves the question of constitutionality is a civil one. But whether it is in a given instance criminal or civil is a matter of accident, because, secondly, the suit never can, in our system, put the issue of constitutionality or unconstitutionality directly, but merely raises that issue indirectly. In deciding the particular suit the court is forced to pass upon the constitutional question as a subordinate matter. The directness of the Athenian method is no less characteristic than the indirectness of our own.

Secondly, there are marked differences in the circumstances of bringing the action, differences resulting from the directness of one method of presenting the issue and the indirectness of the other. By our system an unconstitutional law cannot be touched, until under it an individual wrong is done or attempted. The victim, if he be strong enough, may then defend himself and obtain protection, possibly redress; but the necessity of defence in itself constitutes a wrong which we have no way of preventing. The Athenian system made it possible to obtain a settlement of the question at once, on its own merits, before the measure could be employed to any one's damage. The settlement could be obtained by any public spirited citizen who had at heart the interest of his country. Here is certainly an advantage on the side of Athens. It is true that the *γραφὴ παρανόμων* was abused by the politicians; and the boast of Aristophon, that he had been seventy-five times unsuccessfully assailed with this weapon, suggests a marked contrast

with the dispassionate atmosphere of our Supreme Court. But the liability to abuse resides, after all, not in the direct raising of the issue, but in the personal character of the suit as a criminal prosecution.

Thirdly, as already stated, the form of the decision was in Athens both direct and a complete answer to the question raised. With us, the decision being in form merely a part of the decision of another issue, it not infrequently happens that, while deciding one part of a law to be unconstitutional, the court leaves wholly out of consideration, because not bearing on the special case in hand, other portions of the same law, which may or may not be valid. For a decision on those other portions we must wait until another victim shall raise another case involving them. The advantage is here not on the American side.

The most marked difference, however, is in the constitution of the court. The Athenian *δικαστήριον* which sat upon a question of this kind was constituted like the other popular courts. It was a body of ordinarily 501 men, so selected as to be in fact, as it was intended to be, a fair representative of the citizens above thirty years of age. The Athenian political system left no place for the development of a special juridical class, or even of a special legal class. On the one hand there was not the necessity for such classes that exists among us, for the law was far less extensive and far simpler than ours, or even that of Rome four centuries later. Any citizen of average ability might easily possess a good degree of acquaintance with every part of it; probably most citizens, such being the wide distribution of political experience among them, did in fact possess as full an acquaintance with it as the average lawyer to-day has with our infinitely more complicated and extensive law. Hence a popular court which would be absurdly incompetent among us might in Athens be perfectly competent. On the other hand the existence of a professional class having charge of the law and its interpretation tends towards building up a solid and permanent system of law and legal doctrine. The conservatism of a professional order leads to some method of recording and preserving precedents or



principles, which are appealed to as of special weight in determining how new cases shall be decided. The absence of such a professional class in Athens rendered impossible the growth of such a body of law as the later law of Rome. Perhaps this was not an unmixed evil. It is sometimes said that the Athenian courts were courts both of law and of equity. It would be more accurate to say that, through not having a professional class of lawyers and judges, Athens never became possessed of a system of law and legal practice so inflexible that a special device, like equity, was found necessary in order to soften its rigor. Yet on the whole there is of course no doubt that it is an immense gain to have judicial decisions rendered by a body of specially trained, independent, permanent judges.

Nevertheless, in spite of these differences, the resemblances between the two institutions are sufficiently close and essential to be highly noteworthy. First, the ground of the decision is practically the same. As between a νόμος and a ψήφισμα the difference was just that which our courts recognize between the constitution and an act of Congress. The one belonged to the fundamental law, the constitution; it could be changed only by a specific and comparatively slow and cumbersome process; it was of superior authority to any mere ordinance of the Ekklesia. As between an old and a new νόμος also the same principle was recognized. The law regulating amendments to the constitution was held to belong so distinctly to the fundamental law, that the sovereign people itself could not violate it; any action taken in violation of it was *ipso facto* null and void. This was the ground on which the court made the decision. And if any other conflict was found between a newer and an older νόμος, instead of the later superseding the earlier, the rule was reversed; the later law was unconstitutional because the earlier was superior in authority.

Again, the effect of the γραφή παρανόμων was identical with the effect of this one function of our Supreme Court. Particular laws, if found unconstitutional, ceased to exist. Legislative action was open to revision and sifting by a process which was effective, and whose result was cheerfully

acquiesced in by the people. The natural consequence of this was that the *γραφὴ παρανόμων*, like our Supreme Court, was, and was considered to be, the greatest safeguard of the constitution. The orators frequently dwell upon it in this light; and in 411 B. C., when the oligarchical clubs under the lead of Antiphon desired to do away with democracy and take the power into their own hands, they realized that nothing could be done so long as the *γραφὴ παρανόμων* stood in the way. Accordingly, as we are informed by Thucydides and more definitely by Aristotle in the Athenian Constitution, one of the first acts of the conspirators was to suspend the *γραφὴ παρανόμων* in a revolutionary way and by intimidation. That left the path open to propose and carry through a packed Assembly whatever measure they chose, since no way remained for the courts to review and annul the Assembly's action. On the restoration of the democracy the *γραφὴ παρανόμων* again became part of the constitution; and the encomiums of it which have come down to us date from the period after its importance had by this experience been so signally illustrated.

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## THE NATURAL HISTORY OF PARTY.<sup>1</sup>

**I**N the life-history of a great political party there are five natural divisions or chapters; the first deals with its origin; the second, with the period between organization and advent to power; the third, with its experiences while in power; the fourth, with its experiences while in opposition; the fifth, with the causes and circumstances of its dissolution.

The study of a considerable number of parties, conducted according to this plan, will show that they, not less than plants or animals, follow a certain course of development; in this development that the different stages of growth and activity are under the control of definite laws, and succeed one to another in a fixed order; that there is, in fact, a typical party life to which every party tends to conform, just as there is a typical life for each of the countless organisms of the natural world.

### I. THE ORIGIN OF PARTIES.

In the history of the United States<sup>2</sup> there are four periods, each of which is marked by the rise of new parties. The

<sup>1</sup> A pioneer in this line of investigation is Friedrich Rohmer, a Swiss. His writings on party appeared in their first form in 1842. They were afterwards edited and published by his brother Theodore Rohmer under the title "*Lehre von den politischen Parteien*." Rohmer found a disciple and expositor in the eminent jurist and political philosopher J. C. Bluntschli. The latter has embodied in his book on the "*Charakter und Geist der politischen Parteien*" a full statement of Rohmer's views. The substance of this book may be found in an English form in the article on *Political Parties*, in the *Cyclopædia of Political Science Political Economy and United States History*. The services of Rohmer and Bluntschli in extending, if not introducing, the study of party from a psychological standpoint are of great value.

<sup>2</sup> The facts cited for the sake of illustration in the following pages are taken almost wholly from American political history. The reasons for this are two first, the home field is more familiar, second, the writer believes that party has attained a fuller development and has revealed its nature and tendencies more clearly in the United States than in any other country.

first began near the close of the Revolution and terminated early in the second administration of Washington. It gave birth to two parties, the Federalist and the Republican or, as it was called later, Democratic-Republican party. The second period covers the years from 1820 to the beginning of Jackson's second administration in 1833. Within this space the Anti-Masonic and the National Republican or Whig parties were organized. The third period began in 1840 with the first appearance of the Liberty party in a presidential campaign, and closed with the formal disruption of the Democratic party in 1860. In addition to the Liberty party, these years witnessed the rise of the Know-Nothings and the modern Republicans. The fourth period began in 1876 and has not yet closed; thus far its progeny consists of the Greenback, the Labor, and the Prohibition parties, and the People's party.

A study of these periods will show that the process by which a new party is formed is the following: in the first place a considerable body of citizens becomes dissatisfied with the policy of the government and the policies advocated by existing parties. The cause of this dissatisfaction is that they have become converts to a new policy which promises to do more for the welfare of the state, or the welfare of the class or section to which they belong, or—and this is always the case when a great party is about to be formed—for both the welfare of the state and that of the particular interests with which they are most closely associated. They then seek recognition and support for their views from existing parties; when, however, it becomes clear that these cannot be obtained, they organize and enter the political arena as a new party. The date when the first successful steps towards organization are taken is usually determined by some event that either makes the need of the new policy seem more urgent than before, or else proves beyond the possibility of doubt that no existing party can be won over to its service. It was, for example, the part taken in 1854 by the Southern Whigs in the repeal of the Missouri Compromise that determined the date of the organization of the Republican party.



But organization does not provide the materials which enter into the structure of a new party. In order that these may be ready at the proper moment, there is need of a long period of preparation; hence the true beginnings of a party are to be found, not at the date when it is organized, but in a greatly extended earlier period; they must be sought for in the birth and growth of ideas and convictions which gradually create in the mind of the citizen a new ideal of public policy. The psychic history of the youngest of modern parties dates back to the dawn of civilization.

Another fact which a survey of these periods brings to light is that the rise of new parties is associated with—is indeed an integral part of—a general reconstruction of the party-system of the state. To me it seems clear that this was the case even in 1787. I believe that, before the Convention of that year assembled, the colonies and later the States, had what may be justly called a party-system. It is true that this system was little more than an association of local parties, and that its members, judged by the standard of the present, were very imperfectly organized. Nevertheless it possessed the characteristics and performed the functions which are the distinguishing features of a party-system, and it was the reconstruction of this earlier state-party-system on a new basis that gave the United States her first national party-system. In respect to the second, third, and fourth periods there is no ground for question; in each the destruction of old parties and radical changes in those that survive establish beyond question the fact of a thoroughgoing reconstruction of the general party-system.

Between 1820 and 1833, the last remnant of the old Federal party disappears, the Democratic-Republican party dissolves into its original elements; and when the process of reconstruction is completed, we find not only the new Whig and Anti-Masonic parties, but also two Democratic parties, each of which has characteristics that distinguish it sharply from the party that Jefferson organized. Each claimed the old party name, but the larger, whose leader was Jackson, and whose support was drawn chiefly from the masses of the North and West and the border States may be



called the National Democratic, and the smaller which was led by Calhoun, and was aristocratic rather than democratic, sectional rather than national in spirit and policy, may be designated as the States rights Democratic party. At times these two Democratic parties coöperate, at other times, they antagonize one another: the principles, however, on which they rest are distinct and irreconcilable.

In the third period the work of reconstruction went further in the direction of change than in the second. The great Whig party despite—some would say because of—the leadership of Clay and Webster, became a complete wreck. The National Democratic party was first preyed upon by schism in the North and then compelled to break partnership with its ally, the States rights Democratic party of the South. The short-lived but for a time influential Know-Nothing organization was distinctive in method as well as spirit and policy. The Liberty and Free Soil parties were the first in the North that owed their birth to the sectional idea. The new Republican party, through its relationship to anti-slavery sentiment and to those ideas of human equality and brotherhood of which Jefferson was an apostle, differed far more from the Whig party, from which indeed it drew the larger element of its supporters, than the Whig from the Federalist party. Of the period just before the Civil war more truly than of any other in our history it can be said in respect to parties and politics, that "old things are passed away," and "all things are become new."

Of the fourth and last period but little need be said. In 1876, it became evident that the issues which led to and grew out of the Civil war were practically settled. Then began that fourth reconstruction of the party-system that is still in progress; its results in modifying old parties and in creating new ones are already very considerable. No intelligent observer fails to note that the Democratic and Republican parties of to-day differ widely from the great parties of the war period; and that in the Prohibition, Greenback, Labor, and People's parties we have organizations that are wholly new.

But granting that the rise of new parties is a phenomenon which signifies that a general reconstruction of the party system is in progress, the question naturally suggests itself: are there laws that determine the time when these reconstructions are to take place, and the character of the changes which they are to effect? I believe that there are such laws, and that they admit of clear statement. The life-history of the state, like that of the organisms of the natural world, is made up of a succession of periods of activity, alternating with periods of rest. Each of these double periods covers a definite phase in the development of the state; to each belongs its own distinctive wants; and these wants call into being and determine the character of the political parties whose mission it is to provide for their satisfaction. But these wants, and with the wants the agencies by which they are satisfied, change as the State passes from one phase of its career to the succeeding phase. This is the explanation of that periodical reconstruction of the party-system which, as we have seen, involves not only the creation of new parties but the modification or destruction of old ones. In 1787, the Union had completed the first distinct phase of its career, and was about to enter on the second. It had achieved independence; it had now to provide for unity, and for safety against the attacks of foreign states. To satisfy these wants the Federalist party came into being, and gave to the country the Constitution and the administrations of Washington and Adams; but while rendering these inestimable services, the Federalists treated the rights of the commonwealths and those of the individual citizen with too little consideration. They were aristocratic in spirit, and supported what seemed at that time a policy of extreme centralization. To prevent them from carrying this policy to an unreasonable length and to protect the rights that were being endangered, the party of Jefferson was organized. At the beginning of the second period of party-reconstruction it is clear that the public wants of the years from 1787 to 1815 have been provided for, and that the wants which are now to engage the attention of the people are of a different character. There is no longer any danger from France

or England. The conflict between the Union and the individual State, which was so dangerous in 1787, has given place to a conflict, which at first seems far less serious, between section and section. The masses demand a fuller participation in the control of government; the manufacturing classes ask for higher protection; the newer communities of the West, for the aid of the national government in constructing inter-state roads and canals. The old parties—one of them deeply discredited by the part it had taken in the war of 1812, and now far advanced in dissolution, the other swollen to an unwieldy size by accretions from its rival, and distracted by the quarrels of its leaders—could not provide for these new and imperatively urged wants. Hence the second reconstruction of the party-system. A like experience is repeated in the third and fourth periods; in the third, the old system was shattered on the rock of sectionalism; and on this same rock a new system was built up. The party changes of the eventful years from 1840 to 1860, numerous and wide-reaching as they were, may all be accounted for by the fact that the two civilizations within the Union, the one based on free labor and having its seat in the North, the other based on slave labor and having its seat in the South, were about to close in mortal combat.

The inauguration of President Hayes marks the beginning of a distinctly new period. The tragical sectional issue had been fought out and settled. New issues growing out of the conflicting economic interests of different classes and sections are crowding to the front; already they have led to the formation of several new parties whose chosen battle ground is the industrial and financial policy of the national government. These same economic issues have also produced important changes in the old parties. Moral questions, too, are claiming a share of the public interest. The evils of intemperance have brought about the organization of a party which seeks to make prohibition the law of the land. In the strong reaction against the corrupting influence of the Spoils system we find the source of a movement which is promoting higher ideals of government and citizenship, and at the same time is combating with increasing effectiveness the tyranny of party.



This survey of the distinctive issues of the four periods, hurried and imperfect as it is, will, I think, justify the conclusions: first, that a general reconstruction of the party-system and with this reconstruction—belonging to it in fact as an essential and prominent feature—the rise of new parties, may be looked for confidently, whenever the State has completed a particular phase of its development and is about to enter upon another and different phase; and second, the character of this reconstruction, involving usually the destruction of one or more of the old parties, and always the modification of those that survive, as well as the creation of new parties, is determined by the nature of the issues which belong to the peculiar phase of development on which the State is about to enter.

## II. BEFORE ADVENT TO POWER.

The second chapter in the history of a great party covers the years between the early stages of organization and advent to power. The length of this period varies greatly. In the case of the Federalists it covered about two years. Their opponents had a longer probation; the first steps towards the organization of the early Republican party were taken during the ratification campaign of 1787 and 1788; their advent to power was delayed until 1801. The Whigs and the later Republicans waited longer for office than the Federalists, but not so long as the early Republicans. The length of this period is a matter of importance, because the success of a party in the later stages of its career depends upon the thoroughness with which it performs its first tasks. These tasks are two, the completion of its organization, and the propagation of its views.

The object to which during this period party activity is mainly directed is the conversion of public opinion to the view of public policy which the party represents. At this stage, therefore, its chief employment is agitation. This fact determines to a great degree the character of the leadership of the party. Naturally those men come to the front who are themselves most fully possessed by the party idea

and can present this idea with greatest effect. The party leader needs in addition tact in dealing with men and a talent for organization. There is, however, in the work which he is called upon to do little or nothing that is degrading. On the contrary many and strong influences conspire to raise him to a high level of character and conduct. There is something almost apostolic in the mission which consists in the propagation of principles that are calculated to promote the welfare of the State. Hence it is that, while a party is engaged in the task of converting public opinion, we find the clearest presentation of party ideas and the purest devotion to party principles. The influence of this work upon the rank and file of the new party is like that upon its leaders; in their case, too, it develops power and ennobles character. A large proportion of those who, moved by devotion to the public welfare, break old political ties in order to join a new party, do so under a strong sense of sacrifice; they are sure to encounter more or less of persecution from the parties with which they have acted hitherto. So it comes about that a party contains at this period a larger percentage of men of high political character than ever afterwards. Moreover the influence for good is not confined to the party itself. Modern conditions are such that the process of converting public opinion to the support of a new policy—and that is what a new party must accomplish, before it can attain to office—involves in some degree the education of the whole people. Even those who are not won are compelled to meet arguments and to look at public questions from new standpoints; and the result is freshened interest in public questions and more intelligent thinking. In short it is within this period that the party makes its largest contributions to the intellectual and moral life of the people; it is at this time that a party does most to break up "that intellectual and moral stagnation" which John Stuart Mill calls "the most formidable danger of a completely settled state of society."

The situation has, however, at least two drawbacks. The very clearness with which a party apprehends the idea which it champions may make it inhospitable toward other



ideas that are not less essential to the public welfare. It is at this time completely under the dominion of the idea that gave it birth, and too frequently the result is narrowness of view, inconsiderate treatment of those who hold conflicting opinions, and an intemperate warmth of advocacy. Public opinion is and should be conservative. There are few circumstances that bias good citizens against a new party so much as signs of a want of sound judgment in its advocates. When these advocates present themselves as candidates for office, they compel the people to ask how the general interests are likely to prosper under their guidance; and the answer decides to a great extent the attitude of the public mind towards the principles they represent. The fault of the leader is the fault of the follower. His danger, too, lies in the direction of such a degree of narrowness and such an excess of zeal that sober minded citizens become distrustful of the principles and the policy, because they cannot respect the judgment and good sense of those who support them. How many were kept back from joining the early anti-slavery organization by the fanatical words and deeds of too-zealous anti-slavery men!

A second temptation to which a party is sometimes exposed at this stage is that of bargaining with a rival. The concession thus obtained may be considerable, but the way of obtaining it is open to serious objections. In the first place, it is obvious that what is won in this way is insecure. In the second place, the method itself is an affront to public opinion. In countries where party government prevails the only way in which a party can legitimately accomplish its purposes is through securing the approval of public opinion; and the party that at this stage resorts to other ways, clouds its prospect of ever obtaining this approval.

These years between organization and advent to power are for party the period of youth. It presents the many bright and the few dark features that characterize that period; and the period itself can never return.

### III. IN POWER.

When a party is placed for the first time in control of the government, its situation undergoes a radical change.

Hitherto it has been absorbed in efforts to win public opinion to its particular view of public policy ; now it is confronted by three tasks, two of which are wholly new, and one, partly so. In the first place it must govern ; this means that it must discharge all those ordinary duties of government which have no natural or necessary relationship to party ; it must provide for the public safety, for domestic peace, for national financial obligations, for the general welfare. It is, for the time being, the responsible representative of the state, and is bound to protect and promote each and all of its many interests. The second of the new tasks is to translate party policy into public policy. In an important sense this is the end for which it came into being. The main ground on which it asked for and received office was to secure an opportunity for doing this very thing. Hence it is under obligation to embody as soon and as fully as possible its own views of public policy in legislation and administrative measures. The third task is to maintain itself in office. It is impelled to this not only by love of power, but also from considerations that relate to the public good. The very fact that the state has entrusted a particular party with the control of government implies that the State has need of the services of this party in that position. But in order to render these services, a somewhat extended term of office is requisite. Changes in public policy should be introduced neither hastily nor all at once, but gradually and considerately. A course of action that greatly disturbs the existing order and hurts established interests unnecessarily is the characteristic of revolution ; but it is perhaps the chief merit of party government that it secures the benefits of revolution while avoiding the evils of the revolutionary method. Hence a party newly installed in office is under the constraint of high motives in seeking to remain there, until it has had an opportunity, not only to introduce those changes for the sake of which it sought office, but to introduce them in the way that is calculated to bring most of good to the people and of credit to itself.

This change of tasks leads to changes, some for good, others for evil, in the spirit and method of a party. Previ-

ous to advent to power the general course of party experience tends, as before noted, to narrowness; while in power, this tendency is checked or rather reversed. Then it had only one of the public interests to care for; now, through being charged with the duties of government, it is under obligation to care and provide for them all. The assumption of office leads necessarily to broader views, to a juster sense of proportion, to wider sympathies. It fosters, too, that habit to which party spirit is so inimical, but which is the foundation of true statesmanship,—the habit namely of looking at public questions from the standpoint of the general interest. In the place of the single idea or group of closely related ideas, the single interest or group of closely related interests, to the promotion of which its whole thought and activity were being directed through the preceding period, until it almost lost the capacity for seeing other perhaps equally important ideas and interests, and became altogether incapable of rating them at their true value,—in the place of this restricted and narrowing service it finds itself, as chief steward of the state, in charge of and responsible for everything that pertains to the public welfare. Here again higher and lower motives conspire to bring about one result. There is nothing that a party in power can do that will endanger its own position so much as to carry into office the same narrowness of spirit and policy which was natural and to a degree useful during the preceding stage of agitation. The parties that have done this have had disturbed and short terms; and have usually perished by violence. In illustration it is sufficient to cite the parties of the French Revolution. It is true that, even in the discharge of those duties of government which have no relationship to party policy, every party betrays more or less of partisan bias; certain public interests always receive a disproportionate amount of fostering care, while others not less important are neglected; but this is one of the defects that inhere in the very nature of party government.<sup>1</sup>

<sup>1</sup> The remedy is to be looked for in some degree from the amelioration of party spirit—it has grown less proscriptive, more tolerant, more catholic, with each succeeding generation since the introduction of party government; in some



In one respect the influence of the first task, namely that of governing, on the spirit of party is for evil. The very greatness of the trust committed to it and the exaltation of its position tend to make it arrogant; the strength of this tendency increases with the length of its term of power and with the magnitude and success of its work. Under favoring circumstances a party can become so inflated with this spirit as to look upon itself as having a "divine right" to office. But one further step in this direction is possible, and that is to identify itself with the state; and this step, if we mistake not, has been nearly or quite taken more than once in the history of the United States.

Office broadens the policy not less than the spirit of party; under its influence party policy grows more and more comprehensive, until it includes many of the important ideas and interests that are championed by its rivals. There is indeed no way by which a party in office can do so much to weaken other parties as by doing well the work that they are seeking office for the sake of doing. The party in power should not, however, carry the policy of comprehension so far as to include what cannot be reconciled with its own fundamental principles; for in doing so it is sure to alienate its most trustworthy supporters.

It is in connection with the third task of a party in power, namely that of maintaining itself there, that the machine becomes a prominent factor. Success in a general election is naturally interpreted as a proof that public opinion has been won to the support of the victorious party; its followers are now in the majority; the immediate problem is not so much to make converts as to hold together in compact unity converts already made; hence to quite a degree organization takes the place of propagandism; the skilful organizer and the dexterous manager follow in the wake of the advocates of principles and policies; the party appeal is less and less to the free judgment of the citizen and more and more to the prejudices and self-interest of the partisan. This nat-

degree, however, we must still continue to rely upon rotation of parties in office by which those interests that are neglected under one administration receive due care from its successor.



ural tendency is accelerated and perverted by treating the influence and emoluments that pertain to office as spoils. Some degree of despotism is, without doubt, inseparable from efficient organization; but that extreme and odious despotism which has given rise to the term machine as descriptive of party management is the fruit of the Spoils system.

What is the natural term of power for a given party? To this question no answer can be given that will apply to all parties. If the party in question can incorporate quickly its own policy with the policy of the State, the term should be short and continuous; if, however, this incorporation must wait for the growth of a favorable public sentiment, it should proceed slowly and be made a little at a time; in this case a series of terms of power of varying length is essential. For the Federalists, one term sufficed; for the Democrats, many have proved too few. There is one other consideration which, however, has nothing to do with party policy, that may influence the frequency with which a party is called to office and the length of its stay there; and that is its capacity for governing. In times of emergency the task of governing takes precedence, and the capacity to govern is the highest of qualifications. There can be no question that short and frequent terms of power are favorable to the health and longevity of parties.

The period during which a party holds the reins of government bears a close analogy to that portion of the life of man which follows youth and precedes decline; it is clearly the period of brightest power and greatest productiveness.

#### IV. IN OPPOSITION.

The defeat which transfers a party from office to the rôle of opposition is usually interpreted as a rebuke. It signifies that the people are dissatisfied. In such a juncture two questions present themselves; first, what are the grounds of dissatisfaction? second, how can they be removed? A defeat that carries with it the loss of office is followed, in the case of a party which possesses the elements of health and has before it the prospect of a future, by a period of earnest

self-examination, and then by such modifications of policy and methods as seem most conducive to restoration. This reorganization sometimes includes its leadership. The party chiefs who are most fully identified with features of policy that have brought the party into disfavor are compelled to take less conspicuous positions or even to withdraw altogether from its management. This is the rule, but there are exceptions; it sometimes happens that the defeat signifies that the people have acted from temporary feeling rather than from well settled convictions, or that the policy presented is one towards which the people are moving but have not yet reached that point in their progress where they are able to give it their support. In such cases there is no need of change in policy or leadership. On the contrary the retention of both is conducive to success. This, according to the view of many, was the situation of the British Liberals in '86. But whether the result is a modification, more or less thorough, of its course, or persistence in it, there is something wholesome in the process of self-examination and in the study of the political situation from the standpoint of defeat. These penitential exercises check some of the evils that are inseparable from office; others they bring fully to an end; their tendency is to sober, to chasten, to rationalize. The work of renovation proceeds all the more successfully, because the experience of defeat weakens the influence of the baser and strengthens that of the nobler elements within the party.

But the key to the new situation is to be found in the change of tasks. This is quite as complete and significant as that which took place, when the party passed for the first time from the phase of agitation to the possession of office. While in power, the task of governing constituted at all times a very large and exceedingly important share of its work, and at particular times absorbed the whole of its attention. Now this is laid aside altogether. The second of the two greater tasks which fell to its lot while in power, namely that of embodying its own policy in public policy by means of legislation and administrative measures, is likewise laid aside. Even the defensive tactics by which it strove

to keep itself in office must now be exchanged for a very different mode of warfare. The new tasks are these; first, to defend against the attacks of its successful rival the work it accomplished while in power; second, to hinder that rival as far as possible in the work of remodeling the public policy;—it is right and necessary that it should do this; for in no other way can it be true to its own ideal of what is best for the state; third, to win back again as quickly as possible the lost position. In ordinary times these three tasks, each of which is new, occupy fully the attention and absorb fully the energies of the party in opposition. Now as before the change of tasks is followed by changes in character. First of all the party in opposition becomes conservative: its immediate object is the preservation of its own work: but in protecting this, it finds that the constitution, because of the limitations which it has placed upon government and therefore upon the party in control of the government, is its strongest fortress: hence the party in opposition becomes in a special way the defender of the constitution as well as of recent governmental policy. In looking at the processes by which the political education of the people is carried on, it becomes clear that a very high value should be placed upon this relationship to the constitution, which can be established only when a party is in opposition. The reverence which the people feel for the constitution and for law in general may be traced in large measure to this source. While in power, the constitutional limitations are often regarded as vexatious hindrances; but in opposition, these same limitations assume a new and wholly attractive character.

In the performance of the second task, namely that of hindering the efforts of its rival to incorporate its own policy in legislation and administrative measures, and in the performance of the third task, namely that of putting itself in the rival's place, the party in opposition renders important services. But some of the methods which it employs for the attainment of these ends are harmful in the extreme; while holding the party in power to the strictest accountability, it does everything in its power to prevent it from providing for the public welfare. This too common attitude of the party in opposi-



tion is thus naïvely confessed by Col. Benton in his "*Thirty Years' View*." Writing of the administration of John Quincy Adams he says: "I belonged to the opposition which was then keen and powerful and permitted nothing to escape which could be rightfully, sometimes wrongfully, employed against him." These tactics long pursued destroy candor, pervert the powers of judgment, and tend to develop all the hateful traits of the habitual fault-finder.

If the period of opposition is greatly protracted, other evils manifest themselves. A succession of defeats weakens the confidence of most men in party principles and policy. Hence there may be observed in parties that have passed through this experience a change of attitude towards public questions. In the place of a frank committal, of bold attack or courageous defence, we find hesitancy, timidity, equivocation. This is an unmistakable sign of moral degeneracy, which, if it proceed very far, must quite incapacitate a party for ever taking up again the tasks of government.

What is the natural term of opposition for a party? If the changes which it is to make in public policy have been effected only in part, it should return to office, as soon as the country's need of the remaining changes is greater than that for the services of the party in power; if it has fully incorporated its own policy with the public policy, it should remain in opposition as long as may be necessary in order to protect its accomplished work, and then the time for its withdrawal will have come. To these rules there is one exception; if the party in opposition has a superior capacity for government, it may in times of emergency be recalled to office without regard to its policy as a party.

In this period we cannot fail to note the signs of declining powers. The task of conserving follows the task of producing, and belongs to a later and less vigorous stage of life.

#### V. IN DISSOLUTION.

There is a theory of party which has found wide acceptance that would prolong the life of certain great parties

<sup>1</sup> Benton's "*Thirty Years' View*," I. p. 159.



indefinitely, or rather, to speak quite within bounds, would enable these parties to continue, until the state to which they belong perishes. According to this theory the state has need of two permanent organizations, one, the party of progress, and the other, the party of conservatism. As long as the state lasts, it should always be making progress, hence it will always have need of a progressive party; but its need of a conservative party, whose function is to keep intact whatever is good in the existing order, and to hinder the progressives from rash and unwise innovations, is no less permanent.

The error in this view consists in the assumption that the party of progress and the party of conservatism are the same in the different stages of the development of the state; whereas the truth is that the party of progress in one stage is naturally the conservative party of the succeeding stage. What is it that enables us to identify a particular organization at different points in its career? Identity of name does not of necessity signify identity of character. The only satisfactory way by which to establish this identity is through an examination of party principles; if these are the same, the party is the same; if these have undergone essential change, the party has undergone a corresponding change. Each party comes into being, in order to secure the recognition of certain principles; every great party comes into being, in order to secure the adoption of principles that are essential to the welfare of the state during the particular phase of its development which gives birth to that particular party. So long as it is engaged in securing the recognition of these principles, it is the party of progress; as soon as this recognition is complete, the party becomes conservative: its main function thenceforth is to guard the work that it has already done; but in doing this it becomes naturally the protector of the established order as a whole. This function continues, until either its work is so thoroughly accepted that the risk of successful attack upon it passes away, or another party that can discharge better this conserving function appears upon the scene, or lastly, that the time has arrived when the work under consideration has ceased to be of ser-

vice. Whenever any one of these events happens, the conservative mission of that party is at an end.

But these two functions, first, that of making such changes in the public policy as are necessary in order to bring it into accord with the principles of a party, and second, that of guarding the changes until they are fully accepted or cease to be needed, comprise the whole of a party's mission, and when its mission is fulfilled, the party must die. In the history of the United States two of the four great parties and a considerable number of minor parties have already disappeared. The immediate cause of dissolution is to be found in the exhaustion of vital energy; but this exhaustion is due to that fine and just economy of the state, in accordance with which at the birth of each party, and from time to time during its career, enough and only enough energy is bestowed to enable it to accomplish its appointed tasks. As soon as these are completed, the supplies are withheld or diverted to other parties whose work is still to do. This happens, not only whenever the work which a party consciously undertakes is fully done, but also whenever another party that appears later on the scene can take up and prosecute this work more effectively. The Federalist party dissolved, because its work was done; the useful things which it set out to do, it accomplished so thoroughly that its successor in office did not dare—and soon did not even wish—to disturb them. The Liberty and Free-Soil parties, on the contrary, dissolved, because the Republican party could do better than they themselves the work which they undertook.

Without dwelling further on the fact and cause of party mortality, what shall we say in reply to the question, are there signs that betoken the dissolution of a party? Yes, but they vary greatly in respect to trustworthiness. Perhaps the surest one of them all is inability to provide for a new and dominant want of the state. In 1800 the time had come for the people to take a large part in the control of government; the good of the masses as well as the good of the Union as a whole demanded this; but the Federalists, who believed in confining the management of public affairs to the wealthier and better educated classes, could not provide

for this want. In 1854 the time had come when the issue between the two labor systems of the country, or rather of the two civilizations that were based upon these labor systems, could no longer be settled, or even for any considerable period postponed, by compromises, but the Whig party had employed this method in dealing with that issue, until it believed in and could practice no other; hence it had to give place to a new party, the corner stone of whose policy was to settle the issue in question through giving victory to the free labor system.

Another sign is the appearance of faction. This, however, does not always portend dissolution. It is indeed a common phenomenon, whenever a party has become swollen beyond its proper size by the reception of incongruous elements,—elements that is, whose principles are at variance with those which are distinctive of the party. As soon as the influences which led to the union cease to operate or become appreciably weakened, dissensions and secessions naturally follow. This happened to the Democratic-Republican party between 1815 and 1829. During the preceding fifteen years, owing to the pressure of danger from foreign enemies, and in some measure also to the unwise course of the Federalists, the party received into its membership many who were not in principle Democratic. With the close of the war of 1812, the pressure which had shaped public policy with little or no reference to party principles ceased. These principles then came again to the front as guiding and indeed controlling factors in the determination of public policy. So long as a protective tariff was a war measure, all good citizens could give it their support; as soon, however, as it became a measure whose wisdom must be decided mainly on economic grounds, difference of party principles, as well as the clashing of interests between class and class and section and section, had to be reckoned with. As these differences develop, it would become impossible for Clay and Calhoun to work together as members of the same party.<sup>1</sup> The Republican party had a like experience after the war, and for like reasons. In all such cases the appearance of faction has no sinister meaning; it is, in fact, a sign

<sup>1</sup> The reference, of course, is to Calhoun in the second stage of his career.



that the party is making preparation for the renewal of its proper activity,—a preparation in which separation from those who do not accept its principles is a first and essential step. But when faction arises, not so much from difference of principle as from a loosened hold on principles, when motives that are mainly personal or sectional take the place of principles, the factions thus arising are symptoms of a disease that is dangerous, if not mortal.

A third sign is pessimism. A party which is in vigorous health and has within itself the energy and hopefulness which win confidence and promise success will always make the best of even the least promising situation. It is when the energy of a party is spent, and when, too, it has lost touch with the movement of the times that the Cassandra faculty is called into exercise. It is true that young parties are sometimes pessimistic, but some parties, like some persons, are "born old."

The fact that parties are mortal is unwelcome. We all belong to parties and, in varying but usually high degree, desire for our own an unlimited existence. But reflection should convince us that this is not for the best. The good of parties, not less than the good of the state, demands that, when the work of a party is fully done, it should then withdraw and make room for another party, whose work belongs to the present and the future. The state cannot afford to maintain what has ceased to be of use, and the moment the work of a party is done, it falls under the control of the agencies of decay: its last days are never its best days; on the contrary its conduct steadily deteriorates, until there is danger that the incapacity and perversity which mark its end will efface the memory of its earlier services. This is particularly true of great parties. The very prominence of the rôle they act during the period of their usefulness makes it harder for them to withdraw decorously, when new actors are to take their places. In point here is the unworthy exit of the Federalists. Moreover the strongest partisan may find consolation in reflecting that, if his party like himself is mortal, its good work, as truly as his own, will endure as a part of the moral treasure of his people and of mankind.

ANSON D. MORSE.



## BOOK NOTICES.

*Studien zur Rechtsgeschichte der Gottesfrieden und Landfrieden.* Von Dr. Ludwig Huberti. Erstes Buch: Die Friedensordnungen in Frankreich. Ansbach, Brügel & Sohn, 1892.—8vo, pp. xvi, 593.

This is the first installment of an elaborate history of the Peace of God (*Gottesfriede*) and of the King's Peace (*Landfriede*). The first volume is devoted to France, the second will deal with Germany. The part before us seems unnecessarily bulky. Some self-evident or well-known conclusions are demonstrated at great length: for example, the fact that Roman law exerted considerable influence in South France (pp. 55-70), the definition of *treuga* as a truce or temporary peace (pp. 250-265), and the rejection of Sémichon's views regarding the origin of the municipal constitution (pp. 353-386). We do not affirm that in these and other similar places the author's researches are wholly futile, but many pages might have been replaced by a brief statement of results, with references to modern authorities. The work would have gained in strength by such compression. The treatise has, moreover, two defects which are not uncommon in German writers: an utter disregard of the reader's comfort, as is exemplified by the omission of page-references in the table of contents; and the unnecessarily elaborate consideration of the origin of the *Gottesfriede*.

In examining the inception of the institution, the author strongly objects to the view of Kluckhohn and others that the Church undertook judicial and police functions of the State—the maintenance of peace, because the central government was too weak to suppress feudal anarchy and private war. In one sense this view certainly seems unsatisfactory; for the weakness of the French monarchy was the occasion rather than the cause of the new movement. But that is not Dr. Huberti's objection to the old theory. He seems to think that the prevalent disorder and the king's limited authority have nothing to do with the question at issue, and he tries to substitute a new theory. What that theory is it is difficult to say, though much space is devoted to its elaboration. The whole phenomenon, he asserts, is merely "ein Kampf ums Recht." Its object is "the legal transformation of self-help, or the feud" (p. 33). "Damit ist als allgemeiner

Grund ein umbildungsbedürftiges Institut, als besondere Gründe eine umbildungsfähige Zeit, ein umbildungsfähiger Ort und umbildungsfähige Organe gegeben" (p. 33). The new Peace was necessary, because we have to do with a period of transition in legal and constitutional life; the Peace came into existence not because the State was weak, but because it was being transformed (p. 50). But to say that it is a stage in a process of legal development, does not fully explain the cause of its origin—the reason why the process took that particular form.

In its final analysis, his theory amounts simply to this, that the Peace of God was a natural spontaneous outgrowth of the age—the resultant of many different factors. If he would say this without shrouding his ideas in philosophic phraseology and in didactic excursions, we should at once accept his view without criticism. But he probably would object to this interpretation of his conclusions, for most German investigators feel bound to find the origin of every institution in some other quasi-tangible institution or influence. Now if the Peace of God was simply a spontaneous movement, undertaken by the Church to satisfy the wants of the age, we may safely affirm that the weakness of the French crown was a factor which helps to explain the need of the new institution. As soon as the French monarchy became powerful enough to maintain the peace, the Truce of God became obsolete. In England this institution never assumed great prominence, because her central government in the eleventh and twelfth centuries was much stronger than that of continental states, and after the Norman Conquest the King's Peace rapidly developed. Thus we think that Dr. Huberti's efforts to eliminate this factor of royal weakness from the consideration of the question are unavailing.

In spite of the defects indicated above, his treatise is of considerable value. Much new light is thrown on the history of the Peace and Truce of God; and all the older accounts of the subject have, in great part, been rendered obsolete by his exhaustive investigations. The superiority of his work over Kluckhohn's lies chiefly in the clear exposition of the various stages in the growth of this institution during the eleventh century.

The following is a brief outline of Dr. Huberti's conclusions. The Church Peace is first mentioned in 989, when a provincial synod at Charroux in Aquitaine adopted rules regulating the *pax*.

The movement started in Aquitaine, because that province retained Roman traditions regarding the strict maintenance of peace, and because her higher civilization made the need of order more keenly felt than in North France. The movement spread rapidly northward. Soon the clergy induced the nobles to unite with them into sworn leagues, or brotherhoods, for the maintenance of the peace. The earliest clear example of such a *pactum pacis*, or *foedus pacis*, occurs in 997 or 998. At first the *pax*, or *pactum pacis*, aimed to protect the Church and the defenceless, i. e. unarmed clergy, Church property, peasants, and their possessions. Gradually this protection was extended to other categories of persons and things—women, children, pilgrims, merchants, dwelling houses, mills, farm implements, the king's highways, etc. Rules were often adopted regulating private war, and judicial proceedings in the courts of the league were sometimes substituted for the feud. The *pax* was generally instituted by the bishops in a provincial synod, and it applied only to the district over which the archbishop had jurisdiction, or to some other circumscribed region. It was also usually established only for a term of years, and afterwards renewed. It is often called by modern writers the Peace of God, but this is a misnomer, for *dei* does not occur in the sources. The *pax* may be defined as the permanent protection of certain persons, places, and things against breaches of the peace resulting from feudal or private warfare.

The next stage of growth was the introduction of the *treuga* or *treuga dei*. The *treuga* first appears in 1027 (Synod of Elne in Rousillon), and was fully developed by the middle of the eleventh century. It suspended all private war, and hence protected all persons and all property, during certain specified times: at first only on Sunday, but since 1041 (and perhaps a few years earlier) on four days of each week—from Wednesday night to Monday morning, and also on many holy days, and during various holy seasons. While the Peace was thus extended to certain times, the regulations of the *pax*, or *pactum pacis*—protecting certain persons and things at all times during the year—were retained as a part of the *treuga*. New regulations were simply superimposed upon the old. The Peace and the Truce are thus stages in the development of one institution, and hence the sources use the composite expression *pax et treuga dei*. But Dr. Huberti repeatedly emphasizes the fact that the *pax* and the *treuga dei* were



originally distinct conceptions. The former was a permanent or perpetual peace shielding certain persons, places, and things; the latter was a temporary peace shielding all persons, places, and things. The Truce thus marks an extension as regards the objects protected, but, as the word itself implies, the protection is limited in time.

The active interest of the popes in the Truce of God dates from the Council of Clermont in 1095, and becomes more marked since 1123, when Calixtus II and the Lateran Council took the matter in hand. Thenceforth the *pax et treuga dei*, which had hitherto been a series of isolated movements in different parts of Christendom, became a general Church institution of Western Europe. Finally Dr. Huberti demonstrates the fallacy of Sémichon's view that the constitution of the French communes was based on the Peace brotherhoods; and he shows how the Truce of God become obsolete in the thirteenth century, as the power of the Capetians increased. In the last chapters the measures of the French crown against feudal violence are traced down to the reign of Francis I, when the last vestiges of private war disappeared.

CHARLES GROSS.

*The Campaign of Waterloo.* By John Codman Ropes. New York, Charles Scribner's Sons, 1892.—8vo, xlii, 401 pp. Two maps.

*An Atlas of the Campaign of Waterloo.* By John Codman Ropes. New York, Charles Scribner's Sons, 1893.—14 maps and plans.

Even after the lapse of more than seventy-five years, it seems difficult for Englishmen or Frenchmen to discuss the Waterloo campaign in entire freedom from the influence of national tradition. An American, therefore, has a certain advantage in studying the intricate problems of evidence which the campaign offers, unless his judgment is warped by an undue admiration for the great central figure of the drama. Those who are familiar with the lectures on Napoleon which Mr. Ropes published some years ago, probably feel that in them he was inclined to take an extremely favorable view of certain very dubious portions of his hero's career, and they may in consequence suspect this new work of a similar bias. But though the tone of the discussion is throughout friendly to Napoleon, any prejudices in his favor are judiciously held in check. Moreover the critical material which is brought together in foot-notes, supplementary chapters, and ap-



pendices is so complete, that the reader, even if he have not at hand Siborne, Maurice, Chesney, or Charres, may easily gain independent points of view on most of the questions under debate. Such study is also facilitated by the atlas with its fourteen maps and plans illustrating the different stages of the campaign and, by isometric lines, representing the contour of the field of Waterloo.

It is impossible here to do more than to state briefly a few of Mr. Ropes's conclusions and certain suggestions in regard to one or two of them. He believes, and rightly, that the delays and mistakes of June 15 and 16, whether attributable to D' Erlon, Commander of the First Corps, or to Ney, or to Napoleon, had by no means seriously compromised the issue of the movement as a whole. Napoleon might have taken the Sixth Corps, which had as yet seen no fighting, and the Guard which was only "warmed up" by its brief and brilliant work at Ligny, and have crushed the unsuspecting Wellington early on the morning of the 17th, as he lay encamped at Quatre Bras. Napoleon's failure to do this was, Mr. Ropes believes, a stupendous, not to say inexplicable blunder. A letter written shortly after these events by Sir Felton Hervey, one of Wellington's staff-officers, has just come to light, and it shows how utterly unconscious Wellington was of his peril. The letter says: "Just before dark an officer came from the Prussians to inform the Duke that they had retaken Ligny and St. Armand . . . and that everything was going on well. Soon after dark we went to Genappe, where headquarters were established for the night, and the Duke intended to propose to Prince Blücher to attack the enemy conjointly in the morning." Although unconfirmed rumors of the Prussian defeat reached the staff later, they do not appear to have shaken this confidence, and the truth was not known until the return of Sir Alexander Gordon who was sent the following morning to communicate with Blücher. That Napoleon bitterly regretted the opportunity he had missed, Mr. Ropes points out and emphasizes by a quotation from D' Erlon's autobiography, where the Count tells how the Emperor on the afternoon of the same day overtook him in front of Quatre Bras and exclaimed "in a tone of profound chagrin . . . 'They have ruined France.'" (p. 215). Evidently, judging from these words Napoleon failed to locate the blame accurately.

<sup>1</sup> *Nineteenth Century*; March, 1893.

Besides this fatal delay, Mr. Ropes thinks Napoleon's most serious error was in detaching Grouchy "with so large a force from his army, when he had reason to apprehend that a movement by Blücher with the intention of coöperating with Wellington had been in operation since the previous evening." (p. 345). Nevertheless he believes that Grouchy in the Bertrand order, especially in the words "It is important to penetrate . . . whether they (the Prussians) are intending still to unite, to cover Brussels or Liège, in trying the fate of another battle" (p. 210), had directions sufficiently explicit to save him from the mistaken policy he afterwards pursued. Had Grouchy possessed genius enough to see these words in their relative importance, he might either, as Mr. Ropes explains, have marched at daybreak on the 18th from Gembloux for the bridges across the Dyle, or, at least, from Walthain at noon, when he heard the distant roar of cannon in the direction of Waterloo. But it is considerably clearer now, just what words in that letter were of the greatest weight, than it was when Grouchy first read them, and it is well nigh impossible for us to realize the state of his mind, prepossessed by the conviction, which Napoleon had shared during the morning of the 17th, that the Prussians would retreat on their base of operations and not cut loose from it, even to the extent implied by a march to Wavre.

In connection with Napoleon's or Soult's failure to cause reconnaissances to be made in the direction in which the Prussians actually retired, it is well to recall, in partial mitigation of the blunder, the words of the detailed order sent to Ney the preceding morning: "Vous recommanderez au général, qui sera à Marbais, de bien s'éclairer sur toutes les directions, particulièrement sur celles de Gembloux et de Wavre." (App. C, xxi, p. 381.) Had Ney been able to establish the division at Marbais, as ordered, it would undoubtedly have discovered the line of the Prussian retreat and thus have saved Napoleon from the trap into which he was about to walk.

There can be little dissent from Mr. Ropes's views upon the critical errors of the campaign, but his opinions of Ney's conduct on the 15th and 16th are more open to question. He feels almost certain that Ney received a verbal order late on the afternoon of the 15th to take Quatre Bras. His conviction rests partly upon the army bulletin sent off on that evening and published in the *Moniteur*, June 18. The bulletin says: "L'Em-

pereur a donné le commandement de la gauche au prince de la Maskava, qui a eu le soir son quartier général aux Quatre—Chemins, sur la route de Bruxelles." (App. C, viii, p. 370.) This must have been written after nine o'clock, because another bulletin dated "*Charleroy, le 15 juin à 9 heures*" appeared in the *Moniteur* June 17, having reached the city at three o'clock that morning. As this other, and certainly earlier, bulletin simply states that: "The army has forced the Sambre, taken Charleroy, and driven the advanced posts half way from Charleroy to Namur, and from Charleroy to Brussels . . ." it looks like a description of what was known to have been accomplished up to nine o'clock. Why may we not believe the later, more detailed bulletin to be also a statement of what had been done, not what was to be done; and that the reference to Ney's headquarters merely shows that, when the bulletin was being drawn up, the last news from the front reported Ney still approaching Quatre Bras and about to gain possession of it? If this be so, the bulletin throws no light at all upon the question of the order.

The second piece of evidence which has convinced Mr. Ropes that the order was issued, is Grouchy's explicit statement in the 1818 edition of his pamphlet on the campaign. But as Grouchy, not being present at the time when the supposed order was given, was obliged to gather its terms from the midnight conversation between Ney and Napoleon after the day's operations were over, his testimony must be closely scrutinized. According to him Napoleon blamed Ney "for having suspended the movement of his troops on the 15th at the sound of the cannonade between Gilly and Fleurus, for having halted Reille's Corps between Gosselies and Frasnes, and for having sent a division towards Fleurus where the fighting was going on, in place of keeping himself to the execution, pure and simple, of his orders, which," he adds "prescribed him to march on Quatre Bras." (p. 65.) This last clause might well have been merely an inference, naturally drawn from Ney's explanation of how he forced the enemy back upon Quatre Bras itself, and from Napoleon's probable remark, in the nature of a mild reprimand, that had Ney kept to his orders, he would have taken Quatre Bras. What orders? Orders to

<sup>1</sup> Letters from Paris, Philadelphia, 1816, p. 230. I quote the translation of the Englishman who made it at the time, because I have not the original at hand. Prof. G. L. Burr of Cornell, kindly informs me that the version corresponds to the text of the *Moniteur*.



capture Quatre Bras? Possibly not—rather, orders to keep his men together and vigorously to drive the enemy along the Charleroi-Brussels road. We may suppose then, it was for not doing this and thus not gaining the advantages—among them Quatre Bras—consequent on such an operation that Napoleon blamed Ney, enabling Grouchy to form an idea, though an erroneous one, of the exact terms of the order. Such a theory seems admissible, and if it is, it makes Grouchy's testimony on the Quatre Bras question unconvincing.

Ney's action on the morning of the 16th is severely criticized by Mr. Ropes, and, perhaps rightly. Nevertheless Ney's order to Reille and D'Erlon cannot be used to prove him disobedient to Soult's second and peremptory message to seize Quatre Bras, for the Reille-D'Erlon order must have been forwarded, before the message came. Furthermore it is hard to see why, if Napoleon might have expected Ney to be ready by eleven o'clock to march on Quatre Bras from Frasnes, he should not have had his own army at Fleurus ready to move upon his arrival there, also at eleven. But Napoleon's army did not reach Fleurus until two hours after he himself appeared. Certainly it is not fair to expect more of the servant than of the master. On this point Mr. Ropes's earlier judgment<sup>1</sup> is more just.

HENRY E. BOURNE.

*Des Classes Ouvrières à Rome.* Par A. Typaldo-Bassia. Paris, Chevalier-Marescq & Cie, 1892. (Ouvrage couronné par l'Académie de Législation de Toulouse).—8vo, 150 pp.

This Essay proposes to trace the history of the working classes of Rome. (Cf. pp. 1, 139.) Its method is not, however, historical but topical. It treats in turn of the workmen employed by the state (Chap. I), of the free workmen outside the colleges (Chap. II), of slave labor (Chap. III), of the colleges of free workmen (Chap. IV), and finally of state control of labor (Chap. V). It is perhaps to this arrangement of matter that we are to trace a confusion which seriously injures the value of the essay. It is clear, both from explicit statements and from the sources quoted, that the author regards his theme as covering the whole history of the working classes at Rome. Practically, however, most of what he has to say applies only to the period of state control under the later Empire. Had he restricted himself to this topic from the start, his division of matter, while perhaps open to

<sup>1</sup> Scribner's Magazine, March-April, 1866.



criticism, might still have been defended. But from the point of view actually adopted such a division can only be misleading. As the second section under Chapter I, he treats of the great colleges used in providing food for the City of Rome, and draws a dismal picture of their condition under the iron control of the state. But these great colleges, unlike the workmen in the Imperial factories, began as free corporations. They differed from other colleges only in that the particular services which they rendered were more important to the State. The process by which they lost their independence and became bound to the state can only be understood if treated in connection with the college organization in general; but this topic is not introduced in the Essay till page 52. This is the more remarkable, as the *Metallarii*, who were strictly bound to the service of the state, and whose lot was much more severe than that of the *Navicularii* and *Pistores*, are treated,—so far as they are treated at all,—on page 89, under the head of the free colleges.

The subject of the free colleges properly receives the fullest treatment. The organization and legal status of the colleges are dealt with at considerable length. It is perhaps only natural that the legal aspect of the subject should have special interest for one who is himself *Docteur du droit*. But the questions of organization, of property rights, and of legal representation, while interesting, do not touch the most important point connected with these colleges. What was their precise place in the *economic* system? How far did they use the new privileges gained by their members to better their condition *as workmen*? These questions our author nowhere raises. That they had some such function his comparison with the later guilds seems to assume. On page 20, in speaking of the independent workmen, he says in so many words: "Les corporations ôtaient le travail de l'artisan isolé: la multiplicité de leurs clients, la rapidité de leur main—d'œuvre, et la quantité de leurs produits quotidiens étaient tout autant de causes de nature à entraîner la livraison à meilleur marché." But that is the very question at issue. All that we know of the college organization points to social rather than to economic aims. Prof. Liebenam, whose book "*Zur Geschichte und Organization des Römischen Vereinswesens*" is to-day the best authority on this complicated subject, writes as follows: "Keine Andeutung berechtigt zu der Annahme dass ein gemeinsamer Betrieb des Gewerbes, die Ausübung des Berufes nach vorgeschriebenen Satzungen erfolgen musste, oder dass die Genos-

senschaft, wie die deutschen Zünfte, welche Unredliche ausschlossen, Aufsicht über gute Ausführung des Gewerbes seitens der Berufsgenossen übte" (p. 257.) M. Typaldo-Bassia has given us no facts which would lead us to modify this opinion. Of course, under the Empire of the third and still more of the fourth centuries, we find the colleges an important factor in the regulation of industry by the state. The legislation of Alexander Severus and his successors transformed the clubs from social gatherings of workmen to fixed institutions under state control. No more interesting subject for investigation could be found than the details of this relationship, so far as it affected those colleges which stood outside the immediate service of the state. But the author contributes nothing to our knowledge of this relationship. It is true that he has a chapter on the control of industry by the state, but this confines itself to an account of the celebrated attempt of Diocletian to regulate prices. The subject of taxation, though the key to the whole matter, is barely referred to.

It is characteristic of the author's method that, after describing at length the legal status of the colleges, as we find them in the second and third centuries, he returns, in his section on the political rôle of the corporations, to the old colleges of the Republic, of the organization and history of which we know nothing.

M. Typaldo-Bassia is apparently unfamiliar with the recent German literature on his subject. It is to be regretted that the work of Liebenam's already referred to did not fall into his hands before the publication of his essay. It might have saved him from some of the errors which we have been obliged to criticize. What we need now is not treatises on the history of the working classes in general, but such careful and detailed studies of special fields, as shall make it possible in time to come for an exhaustive treatise to be written.

WM. ADAMS BROWN.

*Aristotle's Constitution of Athens*: A revised text with an introduction, critical and explanatory notes, testimonia, and indices. By John Edwin Sandys, Litt.D., etc. London and New York, Macmillan & Co., 1893.—8vo, lxxx, 302 pp.

This is at present beyond comparison the best edition in which to study the work whose recovery and first publication in January of 1891 aroused so much interest. The superiority of the edition

lies in the fulness and excellence of its explanatory and illustrative apparatus. If the bulk of the comment seems out of proportion to that of the text, one must bear in mind the character of the text, which briefly summarizes several centuries of constitutional history together with the entire legal system of the author's own time, and gives rise to a variety of questions by reason of the relation between Aristotle and other writers on the subject.

An introduction of sixty-eight pages gives first a brief account of the earlier political literature of Greece, and of the political works ascribed to Aristotle, next a valuable summary of the ancient and modern literature on the authorship of the *Πολιτεῖαι*; then the Berlin fragments and the British Museum papyrus of the present work are described. The following fifteen pages contain a judicious examination of the date and authorship of this treatise, an examination that issues in quoting with approval the conclusion of Professor J. H. Wright of Harvard "that it was written mainly by Aristotle, with perhaps the help of a pupil who prepared certain of the less important passages, the work was then revised, but not rewritten by him." When one considers the overwhelming preponderance of scholarly opinion in favor of Aristotelian authorship, especially if the votes be not merely counted but weighed, it might seem unnecessary to give so much space to further discussion of the question. But it is in England more than elsewhere that skeptical voices have been heard, and Dr. Sandys did well to answer them with considerable fulness. Archæologists are accustomed to judging of newly recovered works of sculpture in a mutilated condition; but such finds in the domain of literature are less common, and therefore less easy to estimate rightly. Those who in the first months of 1891 declared themselves unable to accept the work as Aristotle's have not since then been reënforced by a single new voice. Dr. Sandys's introduction closes with an abstract of the treatise and a conspectus of the literature upon it. As regards the text itself it is most interesting to observe the progress that has been made, by the united labors of scholars in many lands, in filling the gaps that Mr. Kenyon was forced to leave in his *editio princeps*. The present edition suffers from one unavoidable consequence of its elaborate character. Such a book requires a long time for printing; several important contributions to the subject appeared before it was published, which were yet too late for notice by the editor except in the addenda. For example, in Fleckeisen's



*Jahrbücher* for October 1892, were published the new readings won by the keen and practiced eyes of Blass from his inspection of the original papyrus, Blass being the first continental scholar to collate the original. A few of these readings may call for renewed examination; but many of them fill lacunae most convincingly, others give acceptable corrections. Some of Dr. Sandys's emendations and notes are made unnecessary thereby; yet it was too late to do more than record the readings in the addenda without comment. The most valuable feature of the edition are the abundant citations of parallel or supplementary passages from a great variety of sources, including many inscriptions. The most important of these quotations are printed in full, so that on not a few disputed points the reader has before him in a single volume a sufficient basis on which to form an independent judgment. The effectiveness of this method of illustration is clearly seen in the citations from Aristotle's *Politics*. An unprejudiced reader cannot fail to be struck with the frequent parallelism in phraseology, and no less in the judgments expressed, in the two works. Another valuable feature is the Greek index, which is complete, except for quite unimportant words like *καί* and *δέ*. Misprints are not numerous and are rarely misleading; they are mostly in misplaced Greek accents and in the German quotations.

This is not the place to discuss in detail either text or interpretation; but two matters of some general interest may be touched upon. In ch. 3. 3 the MS. has *ὡς ἐπὶ τούτου τῆς βασιλείας παραχωρησάντων τῶν Κοδ[ριδῶν] ἀντὶ τῶν δοθεισῶν τῷ ἀρχοντι δωρεῶν*. Mr. Kenyon had remarked upon the passage: "The expression is somewhat remarkable, but the meaning is clear; 'in his reign the Codridae retired from the kingship in consideration of the prerogatives which were surrendered to the Archon. Certain prerogatives were transferred to the Archon, and to that extent the Codridae abandoned the kingly power'" Dr. Sandys finds this unsatisfactory and emends *ἀντὶ τῶν δοθεισῶν* to *ἀνταποδοθεισῶν*, translating "corresponding privileges being (at the same time) assigned to the Archon." Now the writer is here speaking of the early development of the archonship, and it is worth some effort to get at Aristotle's meaning. The MS. reading, though faint and in part abbreviated, is agreed upon by all. The natural meaning of the words is clearly that which Kenyon finds in them, except in one point. The word



surrendered for *δοθειςῶν* carries with it an implication, not in the original, that it was the royal family that voluntarily endowed the Archon with the prerogative mentioned, whereas *δοθειςῶν* simply means *given*, presumably, in this case, not by the king, but by the nobles, who were gradually taking power from the king into the hands of their own order. With this correction Kenyon's translation yields the sense of the original, namely, "in his reign the descendants of Kodros gave up their exclusive right to the office of *βασιλεύς* in return for the prerogatives given to the Archon." This implies that the kingship had hitherto been open only to the family of Kodros; the creation of the office of Polemarch, or war-king, has just been mentioned by Aristotle as the first step in the disintegration of the king's power; the office of Archon also, apparently at its first creation, was now endowed with such powers that the ancient royal family no longer cared to maintain their exclusive right to the emasculated kingship; this, therefore, they voluntarily resigned in exchange for an equality of privilege with the other Eupatrid families as regards eligibility to the archonship, which now became the most important magistracy. This interpretation, which is in part that of the Danish scholar, Dr. Hude, adheres to the ordinary meaning of every word, including *ἀντί*, and implies a course of events that has an air of historical probability. The only objection to it is that we get no hint of these details from other sources, and that other traditions appear to be inconsistent with them. But elsewhere Aristotle does not hesitate to disagree with other historians, both by direct contradiction and by the adding of otherwise unknown details. What we seek now is Aristotle's statement simply. The pregnancy of the clause is thoroughly Aristotelian. Moreover, the author does not vouch for the truth of the tradition, but by the *ἐς* gives the explanation as that of an indefinite minority, *ἔνιοι*.

In regard to ch. 4 on the Drakonian constitution, which has been looked upon as an interpolation, Dr. Sandys does not appear to reach a definite conclusion. The argument for the genuineness of the passage has been materially strengthened by Bruno Keil's work, *Die solonische Verfassung*, another contribution to the subject which came too late for more than brief notice. Keil shows how closely the contents of the chapter are interwoven with Aristotle's entire history of the early constitution. Another consideration of a general nature may be mentioned.

What has thrown doubt on the genuineness of the account is the placing of so many institutions in the seventh century that were supposed to be of much later origin—as a Council of 401, the use of the lot, the principle of accountability, the property classes. But the truth is, a general tendency of recent investigations has been to establish an earlier date for more than one phase of Greek civilization. An illustration or two may be taken from the excavations on the Acropolis of Athens and in Peloponnesus. By the fragments of pottery found in the débris of the Persian destruction it has been proved that the finest styles of black-figured and red-figured vases are to be placed from fifty to a hundred years earlier than the date hitherto assumed; and at Tiryns and Olympia the spade has made necessary a like recasting of some chapters in the history of architecture. The recognition of this general trend has an obvious bearing upon the present question.

We have noted several other passages where we might take exception to the interpretation of Dr. Sandys, particularly in the second part, on *ἡ νῦν κατάστασις τῆς πολιτείας*, on which little special work has yet been published. But the truth is, as was intimated above, the treatise abounds in problems that are as yet unsolved, some of them perhaps insoluble. Instead of dwelling ungraciously upon the fact that an editor has not in less than two years done everything, we ought rather to recognize gratefully that his edition marks a new stage in our study of the treatise, and is indispensable to the student of Athenian political institutions.

T. D. GOODELL.

*History of the United States from the Compromise of 1850.* By James Ford Rhodes. New York, Harper & Brothers, 1893.—8vo, x, 506; ix, 541 pp. Vol. i, 1850-54; vol. ii, 1854-60.

This is a valuable addition to the important works on our political and constitutional history which have appeared in the last two years. Its perusal is calculated to give one a high opinion of the author's ability and fairness. Choosing as he did a recent period, the momentous conflicts of which aroused to a remarkable degree the passions of men, and concerning which voluminous records have accumulated, two dangers evidently beset his path. He was in danger of judging unfairly those whose course he must have strongly disapproved, and he was in

danger of loading his book with details which it must have been hard to reject. He has successfully avoided both these dangers. His historical perspective is excellent, and it is difficult to detect personal bias in his judgments of men at opposite political poles.

The smooth and easy flow of the narrative should be especially noted. By judicious selection and skillful arrangement the important events of the period under consideration are placed before us in such a way as to produce an impression of unity which has become somewhat unusual in a work of this kind. With a single exception one looks in vain for those breaks with which some of our well known histories have made us familiar, where one thread is abruptly dropped and another is taken up. The single exception is to be found in chapter four of the first volume. Was not the insertion of that chapter a mistake? Surely there is no need at this late day to prove that slavery was a prodigious wrong to the slave and injury to the master. Besides, the chapter in question contains repulsive details which can serve no useful purpose now when placed before the general reader, and which the student might well have been left to search for in special histories on the subject of slavery.

In illustration of the author's judicial temper and graceful style, observe the way in which his inevitable censure of Calhoun is put. "It is indeed wondrous pitiful to contemplate Calhoun who had fine ability and sterling morality in private life, thus held captive by one idea, and that idea totally at variance with the moral sentiment of the nineteenth century. In other service he would have been a useful statesman, but he must be judged by the fruits of his two favorite dogmas, the extreme states-rights theory of 1832, and the slavery extension doctrine of 1848. The two, thoroughly disseminated throughout the South, became prime elements of political faith. Their working forced her onward to secession, and induced a proud, high-spirited people to battle for an idea utterly condemned at the tribunal of modern civilization" (vol. i, p. 95). Notice also the delicate touch in the few following words which so clearly portray the diplomatic nature of Seward on the occasion when President Taylor followed Fillmore's advice rather than his own in making certain nominations to office. "He did not retire to his tent, but patiently bided his time. He voted for the confirmation of his adversaries, and then went to work with serenity to supplant his rival in the favor of the President." (Vol. i, p. 101.)



The author appropriately gives much space to Webster's political career, with a just estimate of its importance, and of the motives which probably directed it. In one particular, however, the correctness of his opinion of the seventh of March speech may well be questioned. Webster had opposed the application of the Wilmot proviso to the newly acquired territory of New Mexico on the ground that the soil and climate were unfavorable to agriculture, and therefore slave labor could not be profitably employed; hence the actual exclusion of slavery would be secured without congressional enactment. Under this condition of affairs, to insist on the proviso would simply anger the South to no practical purpose. This view he summed up in the words, "I would not take pains uselessly to re-affirm an ordinance of nature, nor to re-enact the will of God. I would put in no Wilmot proviso for the mere purpose of a taunt or reproach." Of this Mr. Rhodes says, "It is probable that the matured historical view will be that Webster's position as to the application of the Wilmot proviso to New Mexico was statesmanship of the highest order. . . . It was understood that neither cotton, tobacco, rice, nor sugar could be raised, and no one in 1850 maintained that slave labor was profitable save in the cultivation of those products." (Vol. i, pp. 149, 150). But in Lodge's life of Webster (p. 319) we are reminded that *mining* had from ancient times been considered a profitable form of slave labor, and we are told "that this form of employment for slaves was eagerly desired by the South; that the slave-holders fully recognized their opportunity, announced their intention of taking advantage of it, and were particularly indignant at the action of California because it had closed to them this inviting field." This statement is supported by citations from speeches in Congress as reported in the Congressional Globe. Thus, Mr. Clingman of North Carolina on January 22d, said, "But for the anti-slavery agitation our Southern slaveholders would have carried their negroes into the mines of California in such numbers that I have no doubt but that the majority there would have made it a slave holding state."

Passing by the erroneous statement pointed out above, ~~was~~ Webster's course one of "highest statesmanship?" It was essentially this. He set out to save the Union by yielding ground to those who he feared would destroy the Union if they were thwarted in their purpose of steadily advancing the slave power. Fixing his eyes on the physical conditions of the new territory,



and believing that the concession would prove barren of direct material result, he apparently did not look forward to the immense moral effect of a refusal by Congress to declare a new piece of the national domain consecrated to freedom. The highest statesmanship is that which most accurately divines the tendency of events, and is thus enabled to secure the most enduring results. The compromise of 1850 did produce quiet for a short time, but as we all know, it was only the lull which precedes the storm. Lincoln was the man who in advance of the other great leaders of his day saw and proclaimed most clearly that: "this government cannot endure permanently half slave and half free—it will become all one thing or all the other," and he shaped his course accordingly. This was statesmanship of a higher order than that exemplified in the Clay compromise and the seventh of March speech.

C. H. SMITH.

#### BOOKS RECEIVED

Adeney, Walter F., M.A. *The Expositor's Bible*. (Ezra, Nehemiah, and Esther.) Edited by the Rev W. Robertson Nicoll, M.A., LL.D. New York, A. C. Armstrong & Son, 1893.

Boles, Henry M. *Prisoners and Paupers*. A study of the abnormal increase of criminals and the public burden of paupers in the United States. The Causes and Remedies. New York and London, G. P. Putnam's Sons, 1893. xiii, 318 pp.

Briggs, Charles Augustus. *The Higher Criticism of the Hexateuch*. New York, Charles Scribner's Sons, 1893.

*The Case Against Professor Briggs*. 1893.

*The Defense of Professor Briggs*. Before the Presbytery of New York. New York, Charles Scribner's Sons, 1893.

Caird, Edward. *The Evolution of Religion*. "Gifford Lectures," Macmillan & Co., 1893. 2 vols.

Calderwood, Henry. *Evolution and Man's Place in Nature*. London and New York, Macmillan & Co., 1893.

Clark, George H. *Oliver Cromwell*. Boston, D. Lathrop & Co., 1893.

Clark, Henry. *English Prose*. New York, Macmillan & Co., 1893.

Contributions to North America Ethnology vol. vii Riggs, Stephen R. *A Dakota English Dictionary*, Washington, Government Printing Office, 1890.

Fisher, G. P. *Manual of Natural Theology*. 1893.

- Gilman, Nicholas Paine. *Socialism and the American Spirit*. Boston and New York, Houghton, Mifflin & Co., 1893. 8vo. x. 376.
- Gladden, Washington. *Tools and the Man*. Property and Industry under the Christian Law. Boston and New York, Houghton, Mifflin & Co., 1893. 8vo. vi, 308.
- Holder, Charles Fred. *Louis Agassiz: His Life and Work*. (Leaders in Science Series.) New York and London, G. P. Putnam's Sons, 1893.
- Kirkup, Thomas. *A History of Socialism*. London and Edinburgh, Adam and Charles Black, 1892. 12mo. vi, 301 pp. (New York, Macmillan & Co.)
- Kriehn, George. *The English Rising*. (Dissertation) Strassburg, J. H. Ed. Heitz, 1892. 8vo. viii, 131.
- Lang, Andrew. *Homer and the Epic*. London, Longmans, Green, & Co., 1893. x, 420 pp.
- Lightfoot, J. B., D.D., D.C.L., LL.D. *Dissertations on the Apostolic Age*. London and New York, Macmillan & Co., 1892. 8vo. ix, 435.
- Maclaren, A. *The Psalms*. vol. i, Psalms i-xxxviii. New York, A. C. Armstrong & Son, 1893.
- Mahan, Captain A. T., U. S. N. *The Influence of the Sea Power upon the French Revolution and Empire, 1793-1812*. Boston, Little, Brown & Co. 2 vols, 8vo. xx, 380; xxii, 428.
- Mark, Fran Chapman. *The Aesthetic Element in Morality, and its place in a Utilitarian Theory of Morals*. New York, Macmillan & Co., 1893.
- McQuakin, William G. *Whist Nuggets*. G. P. Putnam's Sons, 1893.
- Nash, F. P. *Two Satires of Juvenal*. Boston and New York, Houghton, Mifflin & Co., 1892.
- Parton, James. *General Jackson*. "Great Commanders Series." N. Y., D. Appleton & Co., 1893. 12mo. viii, 332.
- Pater, Walter. *Plato and Platonism*, A series of Lectures. New York and London, Macmillan & Co., 1893. 12mo.
- Pilling, James C. *Bibliography of the Athapascan Language*. Smithsonian Institution, Bureau of Ethnology. Washington, Government Printing Office, 1892.
- Powell, J. W. *Seventh Annual Report of the Bureau of Ethnology, 1885-6*. Washington, Government Printing Office, 1891.
- Rainey, Robert. *The Epistle to the Philippians*. (The Expositor's Bible, edited by Rev. W. Robertson Nicoll). A. C. Armstrong & Son, 1893.

Ropes, John Codman. *An Atlas of the Campaign of Waterloo.* New York, Charles Scribner's Sons, 1893. folio, 14 Maps.

Ropes, John Codman. *The Campaign of Waterloo.* A Military History. New York, Charles Scribner's Sons, 1892. 8vo. xlii, 401.

Ryland, F. *Ethics.* London, George Bell & Sons, 1893.

Sandys, John Edwin. *Aristotle's Constitution of Athens.* A revised text with an Introduction, Critical and Explanatory Notes, Archaeological Illustrations, Testimonia and Indices. London and New York, Macmillan & Co., 1893. 8vo. lxxx, 302.

*The Sermon Bible, II Corinthians, Phillipians.* New York, A. C. Armstrong & Co., 1893.

Sherman, L. A. *Analytics of Literature.* Boston, Ginn & Co., 1893.

Shaler, Nathaniel Southgate. *The Interpretation of Nature.* Boston and New York, Houghton, Mifflin & Co., 1893.

Shedd, William G. T. *Calvinism: Pure and Mixed.* A Defense of the Westminster Standard, 1893.

Siegvolk, Paul. *Ruminations.* The Ideal American Lady and other Essays. G. P. Putnam's Sons.

Sloane, William Milligan. Professor in Princeton University. *The French War and the Revolution.* American History Series. New York, Charles Scribner's Sons, 1893. 12mo. xxii, 409 pp.

Taussig, F. W. *The Silver Situation in the United States.* New York, G. P. Putnam's Sons, 1893. viii, 133 pp.

Taylor, P. M. *The Right of the State to Be.* An Attempt to Determine the Ultimate Human Prerogative on which Government rests. Ann Arbor, Michigan, Register Publishing Co., 1891, 8vo, 109 pp.

Thayer, William Roscoe. *The Dawn of Italian Independence.* Italy from the Congress of Vienna, 1814, to the fall of Venice, 1849. Boston and New York, Houghton, Mifflin & Co., 2 vols. 1893, 12mo, 446 pp.

Weisman, August. *The Germ Plasm.* A Theory of Heredity, translated by W. M. Parker and Harriet Römfeldt. New York, Chas. Scribner's Sons, 1893.

Willink, Arthur. *The World of the Unseen.* An essay on the Relation of Higher Space to Things Eternal. New York and London, Macmillan & Co., 1893.

Wilson, Woodrow. *Division and Reunion, 1829 to 1889,* with five maps. Epochs of American History. New York and London, Longmans, Green & Co., 1893, 12mo, xix, 326 pp.

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COMMENT.

*The present Commercial Crisis: Ethics and Economics: the  
Chicago Silver Convention.*

A COMPARISON of the present crisis with others through which the business community has passed is interesting, as showing which lessons of experience have been learned, and which yet remain to be learned.

We have learned something about credit as a substitute for money, and do not put the strain upon it which we did a few decades ago. The older crises were directly connected with a breakdown of public and private credit. It used to be an axiom that a commercial crisis must begin with a banking panic. The crises of 1825, 1837, 1847, and 1857 were conspicuous in this respect; that of 1873 was hardly less so. They seemed for the most part to be the direct result of bad banking. But in 1885 there was no financial panic, except as an incident of the industrial decline; and in 1893 the same history has repeated itself. There has been surprisingly little bad banking in either instance. The banks have been able to pay what they undertook to, and their customers have taken care to see that such was the case. The panic of 1857 was directly connected with the attempt to do business on inadequate reserves. That of 1893 is, in the opinion of some observers, due to precisely the opposite cause—the hoarding of currency reserves in general, and gold in particular, for fear of such emergencies as may arise. Certain it is that, in spite of the difficulty of



obtaining money accommodation to-day, current demand for goods and percentage of collections have both remained reasonably high. Some of the lessons of experience about the necessity of using cash as a basis for credit appear to have been well learned.

But some of the wider industrial lessons have hardly been learned at all. People may have ceased to depend on credit without cash for the payment of their debts; but they have not ceased to contract debts on the supposition that the currency is going to expand all the time. That is to say, they invest capital in new enterprises, on the supposition that they will be able to market an increased product at something like the old prices. But if the country's output in a given line is increased 50 per cent., while the currency of the country remains substantially unchanged, prices must fall. Consumers will not increase their demand, unless prices are lowered. Every effort to evade this result by combination is apt to make matters worse in the long run; because the effort to maintain the old prices under new conditions of production keeps tempting additional capital into the field. The same result follows from increased tariffs, or from government purchases of silver, or other means of enhancing demand. The permanent effect on profits is often the reverse of what was intended.

When a man has borrowed money in the expectation of high prices and finds himself confronted with low ones, he is apt to look to an inflation of the currency as a means of relief. This is the source of part of the strength of the silver agitation. To do the debtor classes justice, many of them are ranged on the side of sound currency in the present fight.

But the general tendency of debtors is naturally enough to seek a cheaper dollar. They have not learned that their present course is suicidal. They are not strong enough to expand the currency to a silver basis in the face of all the tendencies of the financial world; but they are strong enough to shake investors' confidence and cause a contraction of credit. As matters stand at present, the volume of the currency is regulated by the supply of gold, and its effi-

ciency as a basis for credit by the degree of public confidence in silver. On a gold basis we should have a small currency, commanding a high degree of confidence, on a silver basis, a large currency, commanding a low degree of confidence. Under the present nondescript system, we get the small currency and small confidence combined, and hit the debtor hard at both ends. Let us hope that the present crisis may teach us a lesson in public finance which shall prevent the perpetuation of this state of things.

A few years ago a great deal was said, even among enlightened men, about an alleged conflict between Science and Religion. This phrase has now become practically a thing of the past; and the man who continues to use it stamps himself as one who lives in the past rather than the present. But we hear more than ever before of a conflict between economics and ethics. Just as astronomy was once attacked as unscriptural, or biology as irreligious, so economics is now criticised as immoral, even by those who most pride themselves on their acceptance of scientific progress in general.

For this state of things the economists themselves are partly to blame. They have often claimed that economics occupied a province by itself; that it had nothing to do with ethics, and could tolerate no interference from that quarter. This view became more and more obviously untenable as time went on. People have outgrown the conception of isolated sciences; they have come to regard science as a whole, and to see that no part of the truth can claim to ignore other parts. Scientific economics and scientific ethics must be in harmony. There is no room either for a system of economics which does violence to the consciences of the people, or for a system of ethics, which ignores the conditions of material well-being.

Economists have gradually learned to recognize this truth. John Stuart Mill did so to a very high degree—more than he was sometimes willing to admit. The whole historical school of German economists lays great stress on the ethical

element in economics. The younger generation of English and American economists accepts it as a fact. Even in France, where traditional forms of exposition have held sway longer than elsewhere, one of the most conservative of writers, M. de Molinari, has just published a book entitled *La Morale et l'Économie Politique*, whose avowed object is to make this connection clear to the public mind.

But this widening of the scope of economic science is far from satisfying the mass of critics. The extension of the methods of economic enquiry into the field of ethics is something which they resent rather than welcome. Their hostility is not the opposition of scientific ethics to economic errors, but the opposition of feeling and emotion to scientific enquiry. They have masked this opposition under the name of ethics, because in the somewhat chaotic condition of ethical science many writers have held that each man's feelings and emotions constituted the ultimate test of right and wrong. They know what they themselves think and feel, whether they can give a logical reason for it or not; they object to any science which draws conclusions at variance with their feelings. They hardly recognize the obligation to prove such conclusions wrong before disregarding them. Rather than accept the influences, they will shut their eyes to the facts.

In a brilliant address recently delivered before the British Economic Association, Mr. Goschen calls attention to the character of much of the so-called ethical objection to economics and the dangers connected with it. To the men who are swayed only by the most obvious ethical considerations he applies the term "emotionalists."

"The emotionalist is influenced by the impression made on him by what he sees and feels—the visible, the palpable, the direct. The economist looks beyond—not at the present only, but at the future—and is swayed, not only by the visible and the direct, but by the invisible, the more remote. The one is mainly impressed by the fact; the other by the consequence of the fact . . . . Mark that the attitude of the economist is no less ethical than that of the emotionalist—it is more far-seeing, more social. It looks to the interest of



the community. It is called hard, but it is wise, and it serves the general interest."

In support of these views, Mr. Goschen shows how much of the opposition to economics has been due to the efforts of the economists in restricting poor-relief; yet this restriction has proved a brilliant success, while the legislation of those who looked at feelings instead of consequences simply bred vice and demoralization. He is far from upholding an absolute *laissez-faire* policy; but he holds that whatever is done must be done under the strictest economic study of consequences; and that many of the appeals to ethics and to sentiment, even when made on the basis of obvious facts or feelings, are but pleas for the disregard of other facts and feelings, less obvious but more far-reaching in their effects.

The Silver Convention, which has recently closed its sessions in Chicago, protests in the first article of its resolutions, "against the financial policy of the United States being made dependent upon the opinion or policies of any foreign government." This is a particularly unfortunate time for such utterance. We may, if we will, shut our eyes to what the rest of the world is doing. But we cannot prevent the rest of the world from seeing what we are doing, nor can we prevent our trade from feeling the effects of changes in the currency of other countries. The Indian government, in suspending the free coinage of silver, was undoubtedly influenced by the possibility of the repeal of the Sherman Act.

- The suspension of free coinage in India reacted on the silver market, and aggravated the crisis which had already begun here. When our whole commercial world is feeling so keenly the effects of a law made on the other side of the globe, it would seem wise to find out all we can about the whys and the wherefores of that law, rather than to pretend to ignore it.

But when we come to Resolution 2, which demands the free coinage of silver on the basis of 16 to 1, we can readily see that the Indian example would be unpopular in the convention. For India has had free coinage of silver and has suspended it, and we cannot avoid asking, why so conserva-



tive a country has suddenly broken with its traditions. The answer which the Indian Currency Committee gives amounts to this. Every fall in the price of silver entails a heavy loss in exchange on some £16,000,000 that the Indian government has to remit each year to England. The repeal of the Sherman Law would probably produce a fall in silver and a deficit in the Indian balance-sheet. It would not be possible to wipe this out, either by economies in expenditure or by an increase in taxation. The government should therefore prevent any further fall by limiting the coinage of silver, and thus giving a scarcity value to the rupee. Whether this step is a wise one or not, does not concern us here. The important point to remember is that the free coinage of a depreciating metal makes it more and more difficult for the government to pay its way.

Now the United States are not India, and we can endure a strain which would wreck a poor country. Yet there are some points of contact between the two which are worth noting. The vice of the Sherman Act is, not that it creates a cheap, inflated currency in the ordinary sense of the word. Its vice is that it involves bad financiering. Most governments that have issued a token currency have done so, because it cost them little. But our treasury notes cost the government more than it gets in return for them. They cost it the obligation to redeem them in gold, and it gets a commodity which it cannot use, and which it cannot sell, except at a loss. Our treasury is, we believe, the first in the history of the world which deliberately exchanges good money for bad money. Thus our treasury notes, instead of being used to tide over a deficit, like the greenbacks during the war, have helped to create a deficit. The Sherman Law, in other words, is but a part of a system of extravagance, of which our sugar bounties and our pension rolls are equally flagrant examples; a system which looks at the interests that are to be benefited by government expenditure and forgets the tax-payer; a system which has converted the surplus of a few years ago into a deficit amounting during the fiscal year just passed to nearly \$4,800,000.

Now free coinage of silver would do away with the silver purchases, and to that extent relieve the treasury. But the

interest on the debt would have to be paid in gold, and if general prices went up as the silver men expect, many other expenses of the government would increase. The receipts, however, of which a very large proportion come from specific taxes, would not increase in proportion. We should thus be obliged, either to raise our taxes, or to cut down our expenses. And this is the very dilemma, both horns of which the Indian government has tried to evade by abandoning free coinage.

But the members of the Convention not only pride themselves on ignoring foreign experience; they have apparently learned nothing from our own. The one merit of the Sherman Law is that it has demonstrated, as nothing else could, the impossibility of raising the price of an article whose cost of production is falling, by buying large quantities of it and storing it. And this experience virtually undermines the whole bi-metallic theory. This Sherman Act lesson has cost us thus far some \$150,000,000, but that is less than \$2.50 per capita, and if the lesson were well learned, it would be cheap. The silver men of the Convention have apparently paid their share of the tuition fee without profiting by the instruction.

We cannot, however, believe that they represent the majority of the American people. There is a certain picturesque anthropomorphism in their mode of handling financial questions, quite at variance with the homely, hard-headed way in which most Americans discuss their interests. Thus they speak of gold and silver as coming "down through the ages hand in hand." Wheat and other agricultural products have, we are told, "ridden side by side with silver." Now farmers who ship their wheat by rail, do not speak of it as riding to New York or Liverpool. Nor does a mechanic who pays \$1.10 for a tool, remark: "the dollar and the dime are walking out of my pocket hand in hand." Conceptions so different from the notions of every day life can hardly represent the views of a majority of American citizens.

It seems, therefore, probable that the effect of these resolutions, with their encyclopedic preamble, will be to help, rather than hinder, the unconditional repeal of the silver-purchasing provisions of the Sherman Act.

## MEMOIR AND LETTERS OF CHARLES SUMNER.<sup>1</sup>

HOWEVER diverse may be the estimates of the intellectual and moral traits and the public services of Charles Sumner, there will be but one opinion respecting the ability, the diligence and the conscientiousness of his biographer. Mr. Pierce's talents and training, and the keen interest which he has always taken in political affairs, qualify him admirably for the task which he has undertaken. The work involves really a history of the country, on the political side, during the long and eventful period which is covered by the Memoir. In this period are embraced the struggle with the Slave Power prior to the breaking out of the armed conflict, the years of the Civil War, and the era that immediately followed, down to 1874, the year of Mr. Sumner's death. There was required a careful examination of a vast correspondence, to which was superadded a studious perusal of countless documents and contemporary newspapers without number, together with a minute inquiry into the parts that were played on the stage of political action by the public men of the day. It is no small merit of this work that we are supplied with marginal references, particular and accurate, to the authorities, including the daily journals, which verify or illustrate the narrative. Mr. Pierce had a long and intimate acquaintance with Mr. Sumner. He writes as one might properly be expected to write respecting a friend. He regards with high esteem his abilities and his principles. A biography written in a less sympathetic spirit would be far less valuable. Yet Mr. Pierce is blinded by no enthusiasm of hero-worship. He is no mere Boswell to record with idolatrous interest whatever fell from the lips of the oracle. His approval is by no means indiscriminate. Readers may find themselves differing from his judgments, which are pronounced frankly and fearlessly,

<sup>1</sup> Memoir and Letters of Charles Sumner, by Edward L. Pierce. Vols. iii. and iv. Boston, Roberts Brothers, 1893. 621 and 658. pp.



concerning the distinguished men with whom Mr. Sumner came in contact and not seldom in conflict. They may find less to sanction and more to regret than does Mr. Pierce in the words and doings of the subject of the Memoir. Yet the biographer does not omit to unveil the characteristic defects in Mr. Sumner's character and to touch on the infelicities that pertain to his style as a writer and an orator.

Since these defects and faults impress themselves strongly upon us, in common with many others who look upon our recent history, and contemplate the conspicuous actors who have lately passed away, it is the more obligatory, as it is certainly agreeable, to refer at the outset to Mr. Sumner's high and undeniable merits. It is beyond all question that he was absolutely sincere in his convictions. There is no doubt that he was always actuated by an intense and even passionate love of justice. Nor has he ever been accused of any lack of courage. He was intrepid in word and in conduct. That a career of philanthropy and self-sacrifice was the ideal that inspired him from his early days is made obvious through his spontaneous utterances, for example, his private letters to his brother, as well as from the whole tenor of his life. Having said all this, it may be allowed us to set down some things on the other side of the account. A marked weakness of Mr. Sumner was his vanity. "The reader," writes Mr. Pierce (p. 70), "has gone far enough in this narrative to observe that he (Mr. Sumner) delighted to talk of the noted persons he had met, of the attentions he had received, and the good things said of him. When after his triumphs as an orator applause poured in on him, it delighted his ears; and he could not refrain from communicating it to others, not always his intimate friends. It pleased him to know the effect of his orations, and to let others know it also. This habit, which developed when he took the platform in Boston, remained with him to the end." Mr. Sumner was an uncommonly fine-looking man, and he never seemed to be unconscious of it. It is hardly an exaggeration to say that he seemed to be full of himself. As a speaker, he seldom if ever was so far borne away by his theme and by the force of his emotions as to be oblivious of



his own personality. This of itself was enough to prevent him from being an orator of the first rank. The hearer was a spectator,—an admiring spectator, it might be, but still a spectator. The performance might be remarkable and highly interesting, but it rarely lost wholly the character of a performance. Mr. Sumner's orations were always suffused by a quality which we may term academic. Edward Everett was the typical orator of a class. He combined scholarship and learning with grace of diction and a charm in the delivery of addresses previously composed and learned by heart, which captivated the assemblies that listened, but which just fell short of sending through them that thrill of sensibility which is the product and test of genuine outbursts of eloquence. Mr. Sumner composed and committed to memory orations in the same fashion; but, as compared with Everett, his style was pedantic, as his culture was less correct and finished; and he did not succeed in giving to his delivery that close resemblance to naturalness which Everett was able to attain. This 'academic' quality, a certain artificialness, flourish of epithets, and odor of the lamp, clung to Mr. Sumner's speeches, even on the occasions when grave practical interests were at stake, and when he was truly desirous of producing a definite result. He never, or hardly ever, could be entirely simple and natural. It was natural to him not to be natural. In other words, he was rhetorical to the core. Historic examples of famous orations floated in his mind, and, if he had a speech to make, he aspired to rise to their level or to outdo them. An offshoot of this mental habit was the practice of profuse quotation, literary and historical allusion, and ornate or otherwise labored phrase-making. It was these characteristics which helped to excite in the minds of opponents on the arena of debate a rancor, sometimes a contempt alternating with rancor, which a less artificial style of speech-making, such a style as the excitement of discussion fitly engenders, would not in an equal degree have produced. Had Mr. Sumner had a longer experience at the bar, or in hand-to-hand forensic contests anywhere, he might have cast off the traits to which we refer, and have acquired a direct, inartificial, and business-like method. But,

as it was, they became ingrained. It was not until the later period of his senatorial service that he gained any facility in every-day debate. A single sentence in a letter to Theodore Parker,<sup>1</sup> written just before Mr. Sumner's speech on Kansas, well illustrates the foregoing strictures: "I shall pronounce the most thorough philippic ever uttered in a legislative body." If it is true, as it certainly is true, that in that speech, which provoked the atrocious assault by Brooks, the denunciation of slavery was heartfelt, it would seem to be, also, true that, having in mind the "philippic" as a classical type of oratory, the Senator set out to elaborate in his closet the most signal specimen of invective which the world was capable of producing. When there is a set purpose to be as severe as the possibilities of language permit, it would be strange if the line which separates admissible denunciation from coarseness were not sometimes transgressed. Mr. Sumner was set upon by opponents who vied with one another in insolence. In replying to them, especially in retorts called out by Douglas and Mason of Virginia, he uttered phrases which might better have been left unspoken.

Mr. Pierce begins his third volume at the year 1845. He presents an interesting sketch of society in Boston at that time, in which the attractions of culture and the resources of opulence were connected in matters of religion with a tone which had parted with whatever savored of Puritan rigor. There were standards of opinion, as well as of politeness, which were pretty rigidly enforced. Mr. Sumner, when he came out as a zealous Anti-slavery politician, found himself excluded from the parlors where he had been a welcome guest. This was not owing exclusively to his personal peculiarities. Other men, who were free from the objections specially made against him, were likewise liable to be put under the ban. One of the noblest of the political abolitionists, Dr. Palfrey, once remarked to the present writer that there came a time when he was passed in the streets without a greeting by many with whom he had stood formerly in the most pleasant relations. He had been a

<sup>1</sup> *Memoir of Sumner*, p. 438.

minister in Boston and a professor at Harvard and, as he expressed it, he "knew everybody;" yet, especially after he declined to vote for Mr. Winthrop as Speaker of the House of Representatives, he fell under the frown of the reigning social class.

There were two men whose influence Mr. Sumner, in the earlier portion of his life, felt in a remarkable degree. The one was his instructor, Judge Story, who regarded him with peculiar esteem, and did very much to give direction to his studies. The other was Dr. Channing, whose humanitarian sentiments leavened the atmosphere in which he grew up. Mr. Sumner's physical vigor was such that he was able to read and study not only by daylight but also far into the night. Beyond his studies in jurisprudence, his appetite for literature was omnivorous. He acquainted himself with a multitude of books in various languages. He was not, however, an accurate linguist, and could hardly be styled an entirely thorough scholar in any single branch of learning. He developed a relish for the fine arts, and grew to be fond of collecting bronzes and pictures; but his taste in the selection of them was never correct, when tried by the standards of connoisseurs.

At the epoch when Mr. Pierce's third volume begins, Mr. Sumner had already delivered in Boston his celebrated Fourth-of-July address on War. That it was animated by a moral spirit above the ordinary level, and that there was ground enough for his vehement protests against the barbarities of war, was conceded on all hands. Yet his most judicious friends, including Story and Everett, did not conceal from him their decided dissent from the extreme position which he took in his assertion of the universal unlawfulness of armed contests. That he should think it wise and courteous to ridicule the livery of soldiers, in the presence of the military escort which was among his auditors, was still less approved. The spirit of the Peace Oration may be gathered from a single sentence in his College Address on "Fame and Glory," which was delivered at Amherst and Brown in 1847. After describing in glowing phraseology the inmates who will find a place in the true temple of glory, "the true and



noble Valhalla," he says: "If the soldier finds a place in this sacred temple, it will be not *because*, but *notwithstanding* he was a soldier." So the military heroes who have risked their lives in defence of rights, from Epaminondas to Washington, not to speak of more recent captains of great repute, are to owe their distinction in the final human award to the circumstance that their daring and their achievements in the field are overlooked or forgiven!

At about the time when the addresses just referred to were delivered, there occurred "the prison-discipline debates" in Tremont Temple, to which Mr. Pierce devotes a chapter. It is a curious and almost amusing illustration of that mixture of humanitarian zeal and a taste for public speaking which characterized the Boston of fifty years ago, that heated debates could be carried on, night after night, and at intervals for a long time, between the advocates of the "solitary system" in dealing with convicts—Mr. Sumner being one of these advocates—and their opponents who favored the "congregate system." Mr. Sumner carried into these discussions, for which, as usual, he made elaborate preparation, an extremely vituperative tone. Mr. Pierce (p. 90) quotes from Mr. E. P. Whipple the observation: "Some of Sumner's friends thought his personal references in this debate 'needlessly cutting.'" This was true of his denunciation of a number of good men who had the misfortune to differ from him in opinion, one of whom was the Rev. Louis Dwight, who was really a very worthy person. In commenting on this topic, Mr. Pierce says: "Sumner, who never seemed to realize how sharp his blade was, was surprised afterwards when told that he had said anything at which his opponents took offense." "*He never seemed to realize how sharp his blade was;*" yet he whetted it with great care and deliberation, in the seclusion of his study. But the comment of his biographer is just. It simply illustrates how impossible it was for Mr. Sumner to avoid the feeling that a speech, however sincere the opinions expressed in it, was an exercise in declamation.

The aggressiveness of the Slave Power, which broke up the unity of the Whig Party in Massachusetts, and led to



the conflict of its two sections, "the Cotton Whigs" and "the Conscience Whigs," brought Mr. Sumner to the front, and led to the rivalry between him and Mr. Winthrop. In 1846 the Massachusetts delegation in Congress was divided on the question of voting war supplies, after the beginning of hostilities with Mexico. Mr. Winthrop cast his vote in the affirmative on the question. The character of Mr. Sumner's newspaper attacks at this time led necessarily to a rupture of personal relations between these two gentlemen. In one of these articles he wrote: "Blood! Blood! is on the hands of the representative from Boston. Not all great Neptune's ocean can wash them clean." Mr. Winthrop resented what he considered assaults on his personal character, and, respecting the particular remark just quoted, he wrote: "My hand is not at the service of any one who has denounced it with such severity as being stained with blood." Mr. Sumner did not really mean as much in these articles as in his rhetorical extravagance he had implied; but his failure to weigh his words cost him for the time the friendship of an honorable man, of one who, whether wise or unwise in this official act, was governed by patriotic motives.

The Mexican war brought after it the brood of perilous problems which it was foreseen would infallibly arise out of it. Mr. Webster's famous speech on the Compromise Measures was delivered on the 7th of March, 1850. There are many, at that time in their youth, who will remember the sinking of heart which that speech occasioned among the multitude of the enemies of slave-holding aggression, who had confidently hoped that the great statesman of the North would stand forth as the champion of the cause of freedom. Yet, when that speech is read at the present day, in the light of all the subsequent events, not a few of those who were then cast down or incensed by what seemed to them a surrender and a betrayal, regard it, to say the least, with a mitigated disapproval. It is marked by that simplicity of statement and massive strength of Saxon English which distinguish so nobly the style of Webster, when it is compared even with that of his eminent contemporaries, and much more, when contrasted with the later style

of Congressional speaking. It is composed—and this fact must be kept in mind—with the object of pacifying the mutual, rapidly increasing hostility of the two sections of the country. To what extent the desire of personal advancement was mingled in Webster's mind with more creditable incentives, it may not be perfectly easy to determine. But the existence of more creditable motives it is impossible to disprove. The tone is perfectly dispassionate. From beginning to end it is a tone of studied moderation. The review of the history of slavery, of the opinions entertained respecting it in earlier and later times, at the South and the North, and of the steps taken by the South, with the aid of the Northern Democracy, to spread the institution over new territory, is masterly in its condensation and clearness. There is little or nothing in this portion of the speech of which a Northern Anti-slavery man could reasonably complain. Moreover, Mr. Webster avowed his inflexible opposition to the further extension of slavery. The principal grounds of complaint against him were his willingness to relinquish the Wilmot Proviso on the alleged ground that it was not needed, and, under the circumstances, would be regarded at the South as a taunt and a reproach, and his professed intention to support the Fugitive Slave Law "with all its provisions to the fullest extent." But he added another qualification, which his critics seldom quote—"with some amendments." He appears to have wished to have a provision for a trial by jury in the case of a runaway slave; yet he did not subsequently insist upon it. He expressed the opinion that it properly belonged to the States, and not to the central government, to enact measures for carrying out the provision of the Constitution on this subject; but, he said, the Supreme Court had decided otherwise. Hateful as the obligation was felt to be to send back fugitives to servitude, Mr. Webster, as a constitutional lawyer, and as a Senator, undertaking to review the grounds of complaint both on the side of the North and of the South, could not avoid a frank recognition of the obnoxious stipulation by which the North was bound. On the whole, in judging of Mr. Webster's speech, the question to be decided is whether

at that particular juncture in our national history, a pacifying effort, a palliative, was or was not on the whole desirable; whether it was or was not the fit occasion for the great Northern leader to assume such a tone and take such a position as would have rallied and combined the opponents of slavery-extension and the cognate measures of the Slave Power, and would have raised their ardor and determination to a higher pitch. Possibly the hour has not even yet arrived for history to deliver on this question its final verdict.

The nomination of General Taylor and the refusal of the nominating convention to sanction the Wilmot Proviso was attended by the secession of a portion of the Whigs and by the organization of the Free Soil Party. Sumner was one of the noble band of leaders in Massachusetts, and connected with him were Adams, Stephen C. Phillips, Wilson, Charles Allen, and a few others. This was the germ of the Republican party. The Free Soilers had sufficient strength in the Massachusetts legislature to enable them, in alliance with the Democrats, to defeat Mr. Winthrop and to send Mr. Sumner to the Senate, where he took his seat in 1851. His election was effected without any attempt of his own to secure the place. He was never an intriguing politician, and, gratified as he was by high public office, he was never an office-seeker. In leaving his home for the arduous and responsible duties of his new station, his mind was profoundly affected with feelings of seriousness, amounting to sadness, which found expression in tears.

In the Senate, Mr. Sumner, as concerns "the burning question" of the times, was long in a hopeless minority. His influence on legislative measures generally was insignificant. The fact, however, was that his own mind was taken up with one absorbing theme. It was the period when the clouds were gathering which, not many years after, were to break forth in the tempest of civil war. The speeches which he made had no perceptible effect on the body of which he was a member, but they had an important effect on the country, and to the country they were in reality addressed. They served to diffuse and inflame the moral condemnation and hatred of slavery, and thus to contribute



the materials for a more intense and wide-spread spirit of antagonism in the North when at length the slaveholding States took up arms. At the outset and afterwards, the influence of the "old-line abolitionists," as the school of Mr. Garrison were often called, was not without a marked effect on Mr. Sumner's course. They complained that he did not open his mouth earlier on the floor of the Senate and give up the temporary reserve, which he rightly judged to be the dictate of prudence. That he should wish to gratify this class of the enemies of slavery was natural; but it is doubtful whether their influence on him was altogether beneficial. Left to himself, he might not improbably have spoken with equal efficiency, and yet in a more temperate strain. The fearlessness of Mr. Sumner commended him to the favor of Northerners who were exasperated at the long continued and often unrebuked, or timidly rebuked, insolence of Southern champions in the halls of Congress. When he became the victim of a cowardly and cruel personal attack, he was crowned in the popular esteem with the honors of martyrdom. His heroic endurance of pain and submission to the torture of remedial measures which are admitted not to have been accordant with the medical science of to-day, drew to him a feeling of tender sympathy and respect.

With no wish to depreciate the merits of Mr. Sumner, it is only just to say that he lacked the solidity and balance of judgment, the firm but temperate tone of Chase, the tact and humor of Hale, and the sagacity, and somewhat excessive, yet often serviceable prudence of Seward. Mr. Sumner's lack of humor was one of the striking and unfortunate defects of his mental constitution. The unsparing character of his perpetual crusade against everybody and everything identified in his thoughts with the Slave Power is illustrated in an incident to which Mr. Pierce adverts, but which he does not relate in full. Soon after Chief Justice Taney's death, in 1864, the Judiciary Committee through Senator Trumbull reported a resolution that a bust of Taney should be placed in the old Senate chamber, along with his predecessors on the Supreme Bench. Mr. Sumner was instantly on fire, objecting to the resolution, which was accordingly



postponed. As we happened to learn years ago from the best authority, he proceeded to prepare a speech in which no doubt a host of iniquitous judges would have been exhibited in the pillory, and poor Taney would have been thoroughly pelted by the orator's tongue. A pile of books to fortify the harangue was gathered at the side of his desk. But the chairman of the committee, while he let these preparations go on, had concluded in his own mind not to call up the resolution. The gun was loaded to the muzzle, but there was no opportunity given to discharge it. Nine years later, as Mr. Pierce says, the measure passed the Senate unanimously and without debate.

When all proper deductions are made, the spotless purity of Mr. Sumner's character, his superiority to the allurements of flattery, his freedom from selfish dreams of ambition, and his unswerving faithfulness to the cause of human liberty, through good report and through evil report, entitle him to honor. When the Republicans acceded to power, his opportunities for usefulness as a legislator were, of course, multiplied. In reference to the foreign relations of the country, he was qualified to render in various ways important services. The years that he had spent in Europe in his youth and during his enforced absence from his seat in Congress, had brought him into an intimate acquaintance with a great number of persons of distinction both in Great Britain and on the Continent. He made good use of the advantages thus gained, for the benefit of the country. It is impossible here to examine into the unhappy alienation of Mr. Sumner from General Grant, which was the source of much mental trouble to the former, and led to important political consequences. It is probably a marked instance of "unlikes" breeding "dislikes." The rupture of Mr. Sumner's friendship with Mr. Fish is explained in full by Mr. Pierce. But, while Mr. Sumner is vindicated from certain hurtful imputations as to an alleged negligence of official duty, it is not made clear that the fault was all on one side. Mr. Sumner's labored attack on Grant, in his speech on "Nepotism," is one of the least pleasing of his orations of this class. It is the fruit of a laborious ransacking of books, and is pervaded by an unwholesome animus.

Whoever gives a candid attention to Mr. Sumner's speeches, or studies this excellent biography, will perceive that his judgments on grave political questions often lacked the judicial quality. They were swayed, sometimes fatally so, by the predilections of sentiment and prejudice. Thus, in the debates on reconstruction he contended with great zeal for the proposition that the denial of suffrage to the blacks would be a violation of the guarantee of a republican government made in the Constitution to the States of the Union. "His argument," says Mr. Pierce, "was that of a moralist and not of a lawyer." In the light of the history of the Constitution, his contention was almost puerile. Again, in 1864, he took the "radical ground"—the language is Mr. Pierce's (Vol. IV., p. 176)—"that the clause in the Constitution relating to persons 'held to service or labor' did not apply to fugitive slaves." It is almost incredible that such a thesis should have been seriously maintained by a reputable lawyer or any other well-informed person. Once more, he was moved by his crusade against slavery and by the events of the Civil War to minimize the rights of the States to a most unwarrantable extent. "He admitted, indeed," says Mr. Pierce (Vol. IV., p. 335), "the place of States in our system, as supplying opportunities for education and meeting local wants; but he treated them as conveniences rather than essential organs of a national life, and his conception reduced them almost to the level of counties and towns." Mr. Pierce adds: "Before the civil war Sumner and other Anti-slavery leaders contended for the restriction of the powers of the national government to certain specified functions, and guarded jealously the autonomy of the States." This was the ground which Mr. Sumner took when he was fighting the Fugitive Slave Law. He was in sympathy with the uncompromising detestation of slavery which characterized Mr. Garrison, Wendell Phillips and their coadjutors, who denounced the Constitution and the Union. But he, unlike them, professed to stand within the limits of the Constitution and to be bound by its provisions. It is impossible to deny that his position was a difficult one to hold consistently, and involved embarrassment. When he affirmed in the Senate

that the duty of returning fugitives from slavery devolved, according to the intent of the Constitution, not on Congress, but on the States, Mason asked him whether he would lend support to enactments by the States to carry out the Constitutional guaranty. To this inquiry, Mr. Sumner could only return an answer as evasive as it was irritating. Later, as we have just seen, we find him rushing to the extreme that the Constitution in this part of it does not refer to slaves. When one observes to what tergiversation men like Mr. Sumner were driven in their attempts to make the demands of the Organic Law harmonize with their ethical feeling, one cannot but regard with tolerance the old Constitutional lawyers, like Webster, who felt obliged to adhere to what they were compelled to acknowledge to be the only tenable interpretation of the instrument which they were sworn to maintain.

Some of our readers may find in the foregoing observations a less amount of praise and a larger admixture of criticism than the title of this article had led them to expect. It reflects a certain divided feeling, a feeling composed of opposite ingredients, which corresponds to the impression made upon the author by Mr. Sumner while he was living, and by the memorials of his character and career. One of the most impressive proofs of his worth is to be drawn from testimonies of men of great excellence who knew him well. One of these tributes is contained in a letter of Mr. Motley which was written soon after Mr. Sumner's death. Another is contained in the words of Judge Rockwell Hoar which were spoken just as Mr. Sumner breathed his last, and in these words uttered by the same impartial witness, the next day, in the House of Representatives: "There are many of us who have known and loved the great Senator, whom this event unfits for public duties, or for any thoughts other than those of that pure life, that faithful public service, that assured immortality."

GEORGE P. FISHER.



## THE HISTORIC POLICY OF THE UNITED STATES AS TO ANNEXATION.

THE United States, according to President Lincoln, was "formed in fact by the Articles of Association in 1774." But the self-styled "Continental Congress," which framed those Articles, represented and claimed to represent but a small portion of the American continent. The eleven colonies, whose delegates met at Carpenters Hall, October 20th, 1774, and those of the three counties of Delaware who sat with them on equal terms, though really a part of the proprietary government of Pennsylvania, were in actual possession of but a narrow strip of territory on the Atlantic seaboard, running back no farther than the line of the Alleghanies. To the southward lay Georgia, East Florida, West Florida and Louisiana; to the northward Nova Scotia, and Canada; and on their western frontiers Parliament had recently put the boundary of the new Province of Quebec.

It was the hope of Congress that their ranks might be swelled by the accession of all the British colonies or provinces on our continent. On October 26th a stirring appeal to unite in the Articles of Association, adopted two days before, was addressed to the inhabitants of Quebec. "We defy you," wrote Congress, "casting your view upon every side, to discover a single circumstance, promising from any quarter the faintest hope of liberty to you or your posterity, but from an entire adoption into the Union of these colonies." . . . What, it was urged, would your great countryman, Montesquieu, say to you, were he living to-day? Would not this be the purport of his address? "Seize the opportunity presented to you by Providence itself. You have been conquered into liberty, if you act as you ought. This work is not of man. You are a small people, compared to those who with open arms invite you into a fellowship. A moment's reflection should convince you which will be



most for your interest and happiness, to have all the rest of North America your unalterable friends, or your inveterate enemies. The injuries of Boston have roused and associated every colony from Nova Scotia to Georgia. Your province is the only link wanting to complete the bright and strong chain of union. Nature has joined your country to theirs. Do you join your political interests." . . . "We are too well acquainted with the liberality of sentiment distinguishing your nation to imagine that difference of religion will prejudice you against a hearty amity with us. You know that the transcendent nature of freedom elevates those who unite in her cause above all such low minded infirmities."<sup>1</sup>

The address concluded with the recommendation that they should choose a Provincial Congress, which might send delegates to the next Continental Congress to be held at Philadelphia in May, 1775, and formally accede to the existing confederation, so that in resisting future aggressions they might rely no longer on the small influence of a single province, "but on the consolidated powers of North America."

The Annual Register for 1775 truly says that "of all the papers published by the American Congress, their address to the French inhabitants of Canada discovered the most dextrous management, and the most able method of application to the temper and passions of the parties whom they endeavored to gain."<sup>2</sup>

A correspondence with Canadian patriots was also begun by the Massachusetts committee of safety, and Samuel Adams was particularly earnest in his efforts to gain their support.

In May, 1775, another address to the inhabitants of Canada was adopted by Congress, from the pen of Jay. It declared that "the fate of the Protestant and Catholic colonies was strongly linked together," and that Congress yet entertained hopes of a union with them in the defence of their common liberty.<sup>3</sup>

<sup>1</sup> Journal of Congress, 64.

<sup>2</sup> History of Europe, 32.

<sup>3</sup> Journal of Congress, 109.

During the session of this Congress, an address from the inhabitants of several parishes in Bermuda was received, and a Canadian once appeared upon the floor. In November, the inhabitants of a district in Nova Scotia, which had elected a committee of safety, applied for admission into "the Association of the United Colonies."

The proceedings of this Congress have come down to us in a very unsatisfactory state, owing to the fact that it was not deemed safe to print in the official journals all that was done. After forty years, a large part of what was originally suppressed was published by the government, under the style of the Secret Journals of Congress, but no attempt was made to combine the two records or to supply an index to the whole.

In July, 1775, Dr. Franklin brought forward a plan which had apparently been drawn up for submission in May, for "Articles of Confederation and Perpetual Union" between "the United Colonies of North America." They provided for the accession of all the other British Colonies on the Continent, that is, Quebec, St. John's, Nova Scotia, East and West Florida, and the Bermuda Islands.<sup>1</sup> Notwithstanding the care taken to suppress this proceeding, a copy of the paper got across the ocean and was printed in full in the *Annual Register* for 1775.<sup>2</sup>

In the latter part of this year, Congress despatched agents to Canada and others to Nova Scotia to inquire particularly into the disposition of their inhabitants respecting a union of interests with the more Southern Colonies. The Assembly of Jamaica had sent in a memorial to the King in Council, which, while disclaiming any thought of forcible resistance, set up the claims of their inhabitants to self government in language nearly as strong as that used by the Continental Congress.<sup>3</sup> The latter body responded in an address to the Assembly of Jamaica, thanking them for their sympathy, and saying that, while "the peculiar situation of your island forbids your assistance," they were glad at least to have their good wishes.

<sup>1</sup> *Journal of Congress*, 230, 244.

<sup>2</sup> *Secret Journals of Congress*, 1, 283.

<sup>3</sup> *State Papers*, 252.

<sup>4</sup> *Ann. Reg. for 1775*, *Hist. of Europe*, 101.

Soon afterwards three commissioners were appointed to repair to the Northern frontier, and endeavor "to induce the Canadians to accede to a union with these Colonies" and to send delegates to Congress.<sup>1</sup> The commissioners were authorized to pledge them "the free enjoyment of their religion,"<sup>2</sup> and to raise, if possible, a Canadian regiment for the Continental army.

A few men did enlist, and such accessions were received from time to time that at last a Canadian regiment was organized and officered, and a second one projected.<sup>3</sup>

Early in 1776 another set of commissioners, headed by Franklin, were dispatched directly to Canada on a similar errand, bearing addresses from Congress, which were printed in French and English, and circulated extensively among the people.<sup>4</sup> The instructions of the commissioners were to assure the Canadians that their interests and ours were inseparably united, and to urge them to join us as a "sister colony."

No impression seemed to be made by the addresses, and it was soon discovered that quite an adequate reason existed in the fact that not one out of five hundred of the population could read. Dr. Franklin, on his return, said that if it were ever thought best to send another mission, it should be one composed of schoolmasters. With a few of the leaders there, Franklin had better success, and during a fortnight something like a provisional government was set up, under his auspices, which, however, melted into thin air on the approach of British troops.<sup>5</sup>

In June, 1776, Congress sent two ships to the Bermudas, with provisions, to relieve the distress caused by our non-importation association, and with directions to inquire into the disposition of the inhabitants, respecting a union of interests with ours.<sup>6</sup>

<sup>1</sup> Washington strongly urged this course, in his letters from camp. *Writings Sparks' Ed.* iii, 173.

<sup>2</sup> *Journal of Congress*, 242.

<sup>3</sup> *Writings of Washington, Sparks' Ed.*, iv, 267.

<sup>4</sup> *Secret Journals of Congress*, 42.

<sup>5</sup> *Journals of Congress*, 305.

<sup>6</sup> *Secret Journals of Congress*, 46.

It is probable that the report was not encouraging, for when in July, 1776, Franklin's scheme for confederation was reported on by the committee which had had it under consideration for a year, the provision for bringing in the other English colonies was struck out, except so far as related to Canada. She was to have the right to admission on request, but no other colony was to be admitted without the consent of nine States.<sup>1</sup>

Provision was made by Congress, as soon as these Articles were agreed on and sent out to the States for ratification, (Nov. 29, 1777) for having them translated into French and circulated among the Canadians, with an invitation "to accede to the union of these States."<sup>2</sup>

Our invasions of their territory, however, and their ill-success, had left little of the spirit of united resistance to British authority. Had the declaration of independence been made as early as the more fiery patriots would have had it, it is not impossible that Canada and Nova Scotia would have been swept into the current. Samuel Adams wrote in July, 1776, to a friend, that had it come in 1775, Canada, in his opinion "would at this time have been one of the United Colonies."<sup>3</sup>

In the Fall of 1776, Franklin, then about to sail on his European mission, submitted to the secret committee of Congress his scheme for proposals of peace. These were that Great Britain should acknowledge our independence, and sell us Quebec, St. John's, Nova Scotia, Bermuda, East and West Florida and the Bahamas. In addition to payment of the purchase money, we were to grant free trade to all British subjects, and guarantee to Great Britain her West India islands. In the paper explaining this scheme, Franklin states that, as to the colonies to be purchased, "it is absolutely necessary for us to have them for our own security."<sup>4</sup>

<sup>1</sup> Secret Journals of Congress, 290; Annual Register for 1776, State Papers, p. 269.

<sup>2</sup> Secret Journals of Congress, 54.

<sup>3</sup> Life of Samuel Adams, II, 434.

<sup>4</sup> Franklin's Works, I, 143.



In letters to English friends, while in France, he expressed similar views, saying that discord would continually arise on the frontiers unless peace were cemented by the cession of Canada, Nova Scotia, and the Floridas.<sup>1</sup>

John Adams entertained opinions of the same kind. In April, 1782, while in Holland, he was advised by Henry Laurens, one of our foreign commissioners who had been captured by a British man-of-war, and put in the Tower on a charge of treason, but was now at large on parole, that many of the opposition in England favored the surrender of Canada and Nova Scotia. Mr. Adams replied that he feared that we could never have a real peace, with Canada or Nova Scotia in the hands of the English, and that at least we should stipulate in any treaty of peace that they should keep no troops or fortified places on the frontiers of either.<sup>2</sup>

A few days later, Dr. Franklin submitted to Mr. Oswald, with whom, as the Commissioner of Great Britain, the treaty of peace was afterward negotiated, a paper suggesting the dangers of maintaining a long frontier between countries the roughest of whose people would always inhabit their borders and outposts, and that Great Britain might well cede Canada to us, on condition of a perpetual guaranty of free trade with that province, and a provision for indemnity for the losses both of Canadian loyalists and of Americans whose property had been burned in British invasions, out of the proceeds of sales of the public lands remaining ungranted.<sup>3</sup>

The influence of France was from the first thrown against the enlargement of the United States by the accession of any more of the British Colonies. As most of these had once been hers, she doubtless hoped that they might, some day, become again part of their mother country. Our treaty with her, of 1778, stipulated that should she capture any of the British West India islands, it should be for her own benefit, while if we should occupy the Northern colonies or the

<sup>1</sup> Franklin's Works, i, 311.

<sup>2</sup> See Washington's letter to Landon Carter, of May 30, 1778, to the same effect. Writings, Sparks' Ed., v, 389.

<sup>3</sup> Franklin's Works, i, 480.

Bermudas, they should "be confederate with or dependent upon the said United States."

The adoption of the present Constitution of the United States, in abrogating, by the voice of the majority, the Articles of Confederation, was a revolutionary proceeding, which threw two States out of the Union. North Carolina and Rhode Island, by refusing to ratify the work of the Convention of 1787, put themselves for a time certainly very near the position of foreign States. This consequence of their action was strongly urged in the North Carolina convention. "In my opinion" said Gov. Johnson, one of its members, "if we refuse to ratify the Constitution, we shall be entirely out of the Union, and can be considered only as a foreign power. It is true the United States may admit us hereafter. But they may admit us on terms unequal and disadvantageous to us." "It is objected," replied the next speaker, "we shall be out of the Union. So I wish to be. We are left at liberty to come in at any time." "In my opinion," said James Iredell, afterwards a Justice of the Supreme Court of the United States, "when any State has once rejected the Constitution, it cannot claim to come in afterwards as a matter of right. If it does not in plain terms reject, but refuses to accede for the present, I think the other States may regard this as an absolute rejection, and refuse to admit us afterwards, but at their pleasure, and on what terms they please."

When, however, in 1789 and 1790 these States reluctantly sent in their ratifications, no question was made about receiving them on equal terms with those by which the new government had been originally organized, and they came in on a footing of right.

The United States of 1789 was in many respects a political combination of foreign communities. The Atlantic was almost the sole means of communication between the Northern and Southern States. The Hudson helped to bind Eastern New England to New York; the Ohio and the Mis-

<sup>1</sup> Ellor's Debates, 223, 4.

<sup>2</sup> Ibid, 231.

Mississippi might lead from one scattered settlement to another ; but of those who lived twenty miles from navigable water, it was only the favored or the adventurous few who had ever visited any State, except their own.

To such a people there could be nothing startling in the acquisition of foreign territory. It could hardly be more foreign than much that was already within the Union. It could hardly be more distant, for a voyage from Philadelphia to London or Marseilles took less time and money, and involved less risk and hardship than a trip to Cincinnati or Natchez.

Gouverneur Morris said, at the time of the Louisiana purchase, that he had known since the day when the Constitution was adopted that all North America must at length be annexed.<sup>1</sup>

At the close of the Revolutionary War, both England and America regarded the long frontier on the north of the United States as not unlikely to be soon the scene of renewed hostilities. John Adams, in October, 1785, writes from abroad to the Secretary of State, that some of the opposition in Great Britain were saying "that Canada and Nova Scotia must soon be ours; there must be a war for it; they know how it will end, but the sooner the better; this done, we shall be forever at peace; till then, never."<sup>2</sup>

But we had a boundary still more difficult to the southward. The end of the Seven Years' War in Europe had seen France cede to Spain New Orleans, with so much of her Louisiana territory as lay west of the Mississippi, and the rest to Great Britain. A cession from Spain of her claims on the Floridas had confirmed these as English possessions, and made the Mississippi their western boundary, but during our Revolutionary War, Spain had recaptured them, and her title was confirmed by the peace of 1783.

In 1800, Spain ceded back her Louisiana territories to France, and the century opened with Spain bounding us below Georgia, and France hemming us in at the mouth of

<sup>1</sup> Writings, iii, 185.

<sup>2</sup> Works, viii, 333.

the Mississippi, and by an undefined and, perhaps, indefinite stretch of territory running from the Gulf up towards the Canadian line.

The leaders of the Revolutionary period who survived were united in the belief that it was vital to our interests to acquire the French title. Hamilton,<sup>1</sup> John Adams<sup>2</sup> and Gouverneur Morris,<sup>3</sup> were of this mind, not less than Jefferson, Madison, and Livingston.

There was a serious question as to our right to make the purchase, and the administration represented the party who regarded the government as one of delegated powers to be strictly construed. The great leader of the other school, Daniel Webster, declared, in 1837, during the heat of the controversy over the admission of Texas, that he did not believe the framers of the Constitution contemplated the annexation of foreign territory, and that, for his part, he believed it to be for the interest of the Union "to remain as it is, without diminution and without addition."<sup>4</sup>

We have now, however, more light as to the real intention of the founders, from the published letters of Gouverneur Morris, whose pen put the Constitution in form. No "*decree de crescendo imperio*," he wrote at the time of the Louisiana purchase, was inserted in it, because no boundaries could be wisely or safely assigned to our future expansion. "I knew as well then as I do now that all North America must at length be annexed to us,—happy, indeed, if the limit of possession stop there."

If, on the other hand, it had been intended to keep the Union forever within the limits then existing, we may be sure that an express prohibition would have been inserted. This was Gallatin's view when Jefferson consulted his cabinet as to the Louisiana negotiation. The adverse position, he wrote to the President, must be that "the United States are precluded from and renounce altogether the enlargement of territory, a provision sufficiently important and singular to have deserved to be expressly inserted. Jeffer-

<sup>1</sup> Works, vi, 402.

<sup>2</sup> Writings, vi, 185.

<sup>3</sup> Diary and Works, ii, 442.

<sup>4</sup> Life and Works, ix, 631.

<sup>5</sup> Works, i, 357.



son's reply to this letter shows his own opinion more fully than it is elsewhere given in his correspondence. "There is," he wrote, "no constitutional difficulty as to the acquisition of territory, and whether, when acquired, it may be taken into the Union by the Constitution as it now stands, will become a question of expediency."

It was a time, moreover, for action rather than for deliberation. Between a question of constitutional construction on the one hand, and on the other, a possible French army under a Napoleon, ascending the Mississippi to reconquer a New World, the administration was not disposed to hesitate as to the choice. Jefferson made the purchase, and the people approved the act. Never were fifteen millions of American money better spent.

The next opportunity to add to our possessions came in 1819, when we bought the Floridas of Spain, or at least a release of her title and pretensions to them, and the Supreme Court of the United States, being soon afterwards called upon to say what relation we bore to the new acquisition, held, to the surprise of some of the strict constructionists among our public men, that the right of the United States to wage war and to make treaties necessarily implied the right to acquire new territory, whether by conquest or purchase. This decision came from the lips of our greatest Chief Justice, John Marshall, and has been repeatedly reaffirmed by his successors on the bench.<sup>1</sup>

Neither the Louisiana nor the Florida purchase had presented the question of the absorption of a foreign sovereignty. North Carolina and Rhode Island had finally acceded to the Union, not in such a character, but as having been members with the other States of a perpetual Confederation, for which there had been substituted a new form of government.

In 1836, however, came an application by the republic of Texas for admission into the Union, as a new and equal State.

<sup>1</sup> Gallatin's Writings, i, 114.

<sup>2</sup> *Mormon Church, v. United States*, 136 U. S. Rep., i, 42.

The dominant population there had always been composed of immigrants from the United States. John Quincy Adams, when President, had endeavored to buy it from Mexico,<sup>1</sup> and similar propositions from President Jackson had also been made without success.<sup>2</sup> In 1836, Texas claimed to have achieved her independence, and sent commissioners to Washington to negotiate a treaty of annexation. Mexico regarded her still as one of her provinces, and the United States delayed recognition of the new government until it should have proved its ability to defend its own existence. This was deemed sufficiently established after a year or two, and we, as well as the leading European powers, maintained diplomatic relations with Texas for several years, while the question of annexation was pending.

The opposition to annexation was led by John Quincy Adams, who introduced into the House of Representatives, in 1838, this resolution:

*"Resolved,* That the power of annexing the people of any independent foreign state to this Union is a power not delegated by the constitution of the United States to their congress, or to any department of their government, but reserved by the people. That any attempt by act of congress or by treaty would be a usurpation of power, unlawful and void, and which it would be the right and the duty of the free people of the Union to resist and annul."

If, he said, Texas is annexed, it would be such a violation of our national compact as "not only inevitably to result in a dissolution of the Union, but fully to justify it, and we not only assert that the people of the free States ought not to submit to it, but we say with confidence that they would not submit to it."

On the other hand, many of the Southern leaders announced that if Texas were not annexed, and thus an opportunity offered for the extension of slavery, there would be a dissolution of the Union by the act of the South.

Early in 1844, a treaty of annexation was concluded, but the Senate rejected it by a vote of more than two to one. The admission of Texas was made the main issue in the

<sup>1</sup> In 1823. *Diary* vii, 239.

<sup>2</sup> Jackson offered \$5,000,000 for it in 1835.

Presidential election of the year. The Democratic party favored it in their platform, and won a decisive victory. President Tyler, thereupon, in his message to Congress at its December session, recommended that the verdict of the people be ratified by an Act of annexation, which should adopt and make into law the terms of agreement already agreed on by the two governments.

A compromise bill was passed, by which the consent of Congress was given to the erection of Texas into a new State of the United States, but the President was authorized, should he deem it better to accomplish the same purpose by a treaty, to proceed in that manner. President Tyler promptly approved the Act, and believing that any treaty he might negotiate would fail in the Senate, proceeded under the legislative clause, and on the last day of his term of office hurried off an envoy to Texas to obtain the consent of that Republic, which was soon given, and Texas, therefore, came into the Union in 1845, not by treaty but by virtue of a statute of the United States supported by similar legislation of her own.

It is obvious that this mode of admitting a new State trenching directly on the importance of the States, in so far as they can be regarded as constituents of the Federal government. Treaty making was confided by the Constitution exclusively to the President and Senate, while the composition of the Senate was made such as not only to secure, upon every question of that nature, an equal voice to each State, but to guaranty a minority of the States against being overborne by anything less than two-thirds of all. The Texas precedent gave the popular branch equal powers as to the admission of a foreign State, and made the votes of a bare majority of the upper house sufficient.

From a very early period Cuba has been regarded by leading Southern statesmen as a desirable acquisition for us. In 1809, Jefferson wrote in regard to this to President Madison, that "it will be objected to our receiving Cuba that no limit can then be drawn to our future acquisitions. Cuba can be defended by us without a navy: and this develops the principle which ought to limit our views. Nothing



should ever be accepted which would require a navy to defend it."<sup>1</sup>

A few years later, John Quincy Adams, as Secretary of State, in his instructions to our minister to Spain, wrote that Cuba and Porto Rico were natural appendages to our continent, and Cuba had become "an object of transcendent importance to the commercial and political interests of our Union. Its commanding position, with reference to the Gulf of Mexico and the West India seas; the character of its population; its situation midway between our southern coast and the island of San Domingo; its safe and capacious harbor of the Havana, fronting a long line of our shores destitute of the same advantage; the nature of its productions and of its wants, furnishing the supplies and needing the returns of a commerce immensely profitable and mutually beneficial, give it an importance in the sum of our national interests with which that of no other foreign territory can be compared, and little inferior to that which binds the different members of this Union together. Such, indeed, are, between the interests of that island and of this country, the geographical, commercial, moral, and political relations formed by nature, gathering in the process of time, and even now verging to maturity, that, in looking forward to the probable course of events for the short period of half a century, it is scarcely possible to resist the conviction that the annexation of Cuba to our Federal Republic will be indispensable to the continuance and integrity of the Union itself.

It is obvious, however, that for this event we are not yet prepared. Numerous and formidable objections to the extension of our territorial dominions beyond sea present themselves to the first contemplation of the subject; obstacles to the system of policy by which alone that result can be compassed and maintained are to be foreseen and surmounted, both from at home and abroad; but there are laws of political as well as of physical gravitation; and if an apple, severed by the tempest from its native tree, cannot

<sup>1</sup> See also John Quincy Adams' Diary, v, 38.



choose but fall to the ground, Cuba, forcibly disjoined from its own unnatural connection with Spain, and incapable of self-support, can gravitate only towards the North American Union, which, by the same law of nature, cannot cast her off from its bosom."

The immediate object in view was to prevent Great Britain from acquiring Cuba. Jefferson wrote to President Monroe, at about the same time (1823) that, should Great Britain take it, he would not be for going to war for it, "because the first war on other accounts will give it to us, or the island will give itself to us, when able to do so." If we could get it peaceably, he said, it "would fill up the measure of our well being." President Polk tried to buy it from Spain, and a hundred millions is said to have been the sum offered.

In 1852, Great Britain and France proposed to us the formation of a tripartite agreement, by which each power disclaimed forever any intention to obtain possession of the island, and all undertook to discountenance any attempts to acquire it on the part of any other government. President Fillmore declined the overture, but in referring to it in his annual message, said, that were Cuba "comparatively destitute of inhabitants or occupied by a kindred race, I should regard it, if voluntarily ceded by Spain, as a most desirable acquisition. But under existing circumstances, I should look upon its incorporation into our Union as a very hazardous measure. It would bring into the Confederacy a population of a different national stock, speaking a different language, and not likely to harmonize with the other members."

President Fillmore had, however, proposed and entered into a somewhat similar convention, two years before, with Great Britain, with reference to Central America. By this it was covenanted that neither would ever occupy, colonize, or assume any dominion over any part of Central America. Mr. Buchanan, while our minister to England in 1854, in alluding to this Clayton-Bulwer convention of April 19, 1850, in a communication to the British foreign department, used this language:

<sup>1</sup> Wharton's Dig. of Int. Law, 361.

"Both parties adopted this self-denying ordinance for the purpose of terminating serious misunderstandings then existing between them, which might have endangered their friendly relations. Whether the United States acted wisely or not in relinquishing their right as an independent nation, to acquire territory in a region on their own continent, which may become necessary for the security of their communication with their important and valuable possessions on the Pacific, is another and a different question. But they have concluded the convention; their faith is pledged, and under such circumstances, they never look behind the record."

The treaty of 1848, which closed the Mexican War, had given us, on payment of \$15,000,000, New Mexico and California, and in 1853 another cession from Mexico—the "Gadsden purchase," added Southern Arizona at a cost of \$10,000,000 more. These new possessions turned public attention to the necessity of a canal across the isthmus of Panama, and it was in the negotiations with reference to the *status* of such a canal that the covenant just mentioned in the Clayton-Bulwer convention was proposed by our government and accepted by Great Britain. But the prospect of such a canal made the command of the entrance to the Gulf of Mexico doubly important to us, and gave a new color to our diplomacy regarding Cuba. Edward Everett, in one of his communications to the British minister, when Secretary of State, in 1852, said that "territorially and commercially it would in our hands be an extremely valuable possession. Under certain contingencies it might be almost essential to our safety."

The Ostend manifesto of 1854 emphasized these considerations, and intimated quite strongly that if a peaceful cession could not be accomplished, a conquest might be dictated by the law of self-preservation.

President Buchanan devoted three pages of his second annual message, in 1858, to the Cuban question, referring to the fact that former administrations had repeatedly endeavored to purchase the island. The increasing trade of the Mississippi valley, he said, and the position of Cuba as commanding the mouth of the river rendered its possession "of

vast importance to the United States," and, trusting in the efficacy of ready money, he recommended an appropriation by Congress, to enable him to make an advance to Spain, should he be able to negotiate a cession, immediately on the signature of the treaty, and before its ratification by the Senate. A bill appropriating \$30,000,000 was thereupon introduced in the House, and favorably reported, but no further progress was made. In his message of 1859 and 1860, the President repeated his recommendation of a purchase, urging that it would secure the immediate abolition of the slave trade; but the forces that were working towards something greater, the abolition of slavery, were such as to render any serious consideration of the Cuban question now impossible.

An Act passed under the Buchanan administration, which is still on the statute books, Rev. Stat. Title LXXII, explicitly affirms the power of the United States to acquire foreign territory by right of discovery, and is also of importance as one of the few laws by which large powers, not belonging strictly to the executive function, have been placed by Congress in the hands of the President.

This statute provides that whenever any of our citizens discovers and takes possession of any guano deposits on any island, rock or key, which does not belong to any other government, "such island, rock or key may at the discretion of the President, be considered as appertaining to the United States." All laws as to crimes and offences committed on the high seas are extended over such places. Trade in the guano is to be regulated as is our ordinary coasting trade. The United States shall not be obliged to retain possession of such places after the guano has been removed. The island of Navassa, some two miles long, lying between San Domingo and Jamaica, discovered in 1857, is now a part of the United States, under this Act of 1856. Not long ago there were a hundred and fifty persons living on it, all engaged in the removal of the guano. One of them killed another, and was promptly punished by the Courts of the United States.



Under President Lincoln's administration, the country had enough to think of in trying to preserve its territory, without endeavoring to enlarge it. He did, however, recommend to Congress in 1861, the consideration of a colonization scheme by which the freedmen of the South and such of our free colored population as might desire it, might be transported to some foreign land, where in a climate congenial to them, they might build up a new community. To carry out this plan "may," he said, "involve the acquiring of territory and also the appropriation of money beyond that to be expended in the territorial acquisition. Having practiced the acquisition of territory for nearly sixty years, the question of constitutional power to do so is no longer an open one with us. . . . On this whole proposition, including the appropriation of money with the acquisition of territory, does not the expediency amount to absolute necessity:—that without which the Government itself cannot be perpetuated?"

When, a year later, slavery was abolished in the District of Columbia, \$500,000 was appropriated to aid in colonizing such of the freedmen as might wish to emigrate, in Hayti or Liberia. A few were aided to leave the country in this way, most of whom were taken by the government to Ile à Vache, off the coast of New Granada, and the rest to Liberia.

Alaska was bought of Russia, by treaty, in 1867, for \$7,200,000. The House of Representatives insisted for a time on the necessity of an Act of Congress to legalize the purchase, but the Senate refused to concur in this view, and the point was finally yielded. By this acquisition we came into possession not only of part of the continent remote from our own, but of distant islands, some of them over two thousand miles from the nearest point of sea coast previously within our jurisdiction. The test of contiguity, as determining the right of annexation, was now, therefore, finally and deliberately abandoned. It was abandoned also with almost unanimous acquiescence, since there were but two votes in the Senate against the ratification of the treaty.



Had President Jackson had his way, a similar position would probably have been taken by our government thirty years before, for, in 1835, he authorized our minister to Mexico to offer her half a million dollars for a cession of the bay of San Francisco and the adjacent shore.<sup>1</sup>

In the same year which witnessed the purchase of Alaska, Mr. Seward, as Secretary of State, also negotiated a treaty with Denmark for the cession of the West India islands of St. Thomas and St. John, on our paying her \$7,500,000 for them. President Johnson, in his annual message for 1867, thus alludes to their proposed annexation.

"In our revolutionary war, ports and harbors in the West India islands were used by our enemy, to the great injury and embarrassment of the United States. We had the same experience in our second war with Great Britain. The same European policy for a long time excluded us even from trade with the West Indies, while we were at peace with all nations. In our recent civil war the rebels, and their piratical and blockade breaking allies, found facilities in the same ports for the work, which they too successfully accomplished, of injuring and devastating the commerce which we are now engaged in rebuilding. We labored especially under this disadvantage that European steam vessels, employed by our enemies, found friendly shelter, protection, and supplies in West Indian ports, while our naval operations were necessarily carried on from our own distant shores. There was then a universal feeling of the want of an advanced naval outpost between the Atlantic coast and Europe. The duty of obtaining such an outpost peacefully and lawfully, while neither doing nor menacing injury to other States, earnestly engaged the attention of the Executive department before the close of the war, and it has not been lost sight of since that time. A not entirely dissimilar naval want revealed itself during the same period on the Pacific coast. The required foothold there was fortunately secured by our late treaty with the Emperor of Russia, and it now seems imperative that the more obvious necessities of the Atlantic coast should not be less carefully provided for. A good and convenient port and harbor, capable of easy defence, will supply that want. With the possession of such a station by the United States, neither we nor any other American nation need longer apprehend injury or offence from any transatlantic enemy. I agree with our

<sup>1</sup> Whart. Int. Law Dig., 557

early statesmen that the West Indies naturally gravitate to, and may be expected ultimately to be absorbed by the continental States, including our own. I agree with them also that it is wise to leave the question of such absorption to this process of natural political gravitation. The islands of St. Thomas and St. Johns, which constitute a part of the group called the Virgin islands, seemed to offer us advantages immediately desirable, while their acquisition could be secured in harmony with the principles to which I have alluded."

At this time the relations of President Johnson to the Senate were anything but harmonious, and mainly from this cause, I think, the treaty was rejected in 1868, although the inhabitants of both islands had already voted in favor of annexation.

Shortly after Gen. Grant's accession to the Presidency, he concluded the negotiation with the Dominican Republic, begun by Secretary Seward at the close of the preceding administration,<sup>1</sup> of a treaty of annexation of so much of the island of San Domingo as was not included within the limits of Hayti. As in the case of Texas, two independent sovereignties thus contracted for the absorption of one into the other, but unlike Texas, San Domingo was not to enter the Union as one of the States that compose it. The treaty was rejected by a tie vote in the Senate. In his next message to Congress, the President earnestly recommended legislative action in the same direction.

"The acquisition of San Domingo," he said, "is desirable because of its geographical position." . . . "At present our coast trade between the States bordering on the Atlantic and those bordering on the Gulf of Mexico is cut into by the Bahamas, and the Antilles. Twice we must, as it were, pass through foreign countries to get by sea from Georgia to the West coast of Florida." . . . "The acquisition of San Domingo is an adherence to the 'Monroe Doctrine'; it is a measure of natural protection; it is asserting our just claim to a controlling influence over the great commercial traffic soon to flow from West to East by way of the Isthmus of Darien."

<sup>1</sup> Seward's Works, v, 29.

Congress responded to these appeals by sending an able commission, Senator Wade, President Andrew D. White, and Dr. Samuel G. Howe of Boston, to visit San Domingo. They reported in favor of its annexation, but the project went no farther.

The opposition to Grant in this matter was started by Charles Sumner, then at the head of the Senate Committee on Foreign Relations, who seems to have been governed largely by his interest in the colored race.<sup>1</sup> To them, he believed, belonged "the equatorial belt." They had established a republic in Hayti. If San Domingo were annexed to the United States, Hayti must inevitably decline, and there would be a new argument for those who denied the capacity of the negro for self-government.

Down to the close of the reconstruction period, which followed the Civil War, there was, indeed, no time after the Louisiana purchase when the question of the right and policy of annexation, with respect to any foreign territory, was not determined by every public man largely in accordance with his views of its bearing on the future of the Southern blacks. Grant, himself, was looking to San Domingo as the site of future States of our Union, peopled and governed by colonies of our new class of freedmen.

The American people, in the words of Henry Adams, began the century with the "ambition to use the entire continent for their experiments."

Jefferson was their leader, and of all American statesmen he best understood and represented the popular sentiment of his day. What Lincoln was to the North, Jefferson was to the country. But Jefferson had the larger, though less balanced mind. He was an idealist and an optimist. With equal rights and opportunities to every citizen, and to every State, he feared no extension of territory for a Union resting on community of interest and individual liberty. Jefferson never believed that the prosperity of the South was dependent on the institution of slavery, but, for half a century,

<sup>1</sup> *Memoir and Letters*, iv, 448.

<sup>2</sup> *History of the United States*, li, 301.



among his successors in the conduct of the government, were many who did. Our policy as to annexation, therefore, soon became a sectional question, and so continued until the Southern negro was given not only freedom, but the right of suffrage.

President Grant's administration in 1872, by an agreement between one of our naval officers and the chief of Tatuila, one of the Samoan islands, obtained the exclusive privilege of establishing a coaling station at the port of Pango Pango, and President Hayes took possession of the privilege ceded in 1879.

The arts of civilization were introduced into the Sandwich Islands by American missionaries in the first quarter of this century, and their trade has always been largely with this country. They lie three hundred miles nearer San Francisco than the outermost of the Aleutian islands, which came to us as a part of the Alaska purchase. In 1843, an English officer, without authority, took possession of Hawaii, in behalf of the Queen, but this action was promptly disavowed by his government. Our Secretary of State, Mr. Legare, wrote, upon this event, to our minister to England, that these islands bore such peculiar relations to us that we might feel justified in interfering by force to prevent their conquest by any of the great powers of Europe.<sup>1</sup> Great Britain and France, however, allayed any ill-feeling on the part of our government by a convention made during this year, by which each covenanted never to take possession of the islands or assume a protectorate over them.

In 1853, Mr. Marcy, as Secretary of State, in instructions to our minister to France, wrote of them thus: "It seems to be inevitable that they must come under the control of this Government." Two years later he informed our minister to Hawaii that we would receive the transfer of territorial sovereignty of the islands. In 1868, the subject was again brought up, but Secretary Seward, fresh from his disap-

<sup>1</sup> Whart. Int. Law, Dig., 418.



pointments with reference to the Danish West Indies, wrote our minister that the time was unfavorable for the consideration of annexation propositions by the United States.

By the treaty of reciprocity in 1875, the two countries were drawn closer together, and the commerce between them was soon doubled.

Early in the present year, a treaty of annexation was laid before the Senate, but withdrawn on the accession of the new administration. In his message accompanying the treaty, President Harrison said that the deposition of the Queen had left but two courses open to the United States, the assumption of a protectorate, or annexation.

The views of the present administration may be inferred from President Cleveland's first message, in 1884, in which he said, "I do not favor a policy of acquisition of new and distant territory, or the incorporation of remote interests with our own."

The annexation of Canada, so ardently desired by Franklin and all the statesmen of the Revolution, has never since that period been made a subject of formal diplomatic discussion. Its growth in wealth and population, and its federation into a great Dominion of many provinces, are evidently paving the way to independence. When that time comes, annexation will follow.

Her institutions are every year becoming better fitted to coalesce with our own, as her provinces, each with a life and history of its own, participate by their representatives in general legislation at a common capital, under an executive who, during his term of office, is more secure in his position than the prime minister of Great Britain, and hardly less subject to the pleasure of the sovereign.

The French Canadians are of a different race and tongue and religion from that of most of the Americans of the Revolutionary era. But if they were not afraid to admit them to citizenship of the United States in the eighteenth century, surely we need not be when the time comes, in the twentieth. The Americans of to-day are a composite race, and universal religious toleration has made us sensible that men's religious beliefs are dangerous to the community

only when they are forced to conceal or suppress them. The Roman church has frankly accepted the right of every people to such form of government as they may choose for themselves, and the million of Catholics in Canada would be no more, as such, a factor in American politics than the million of Catholics who are to-day inhabitants of New York, or the more than a million who are citizens of New England.

The different provinces of Canada are so situated with respect to each other, and the natural boundaries of separation between most of them are such, that their trade gravitates southward to the United States, in seeking its center of distribution. What it has to sell, it can sell best to us. What it needs to buy, it finds best here.

The immense area which the Dominion of Canada now includes, it is beyond the powers of any mere colony or group of colonies to bring under the full influences of civilization. As fast as it approaches that end, so fast it also approaches the necessity of independence of Great Britain.

It is probable that Great Britain would make little objection to the severance from her possessions of so costly and unremunerative a dependence. Before the negotiation of the treaty of Washington, our Secretary of State, Mr. Fish, in conversation with Sir Edward Thornton, the British minister, said that our "Alabama" claims were too large to be settled in money, and intimated that a cession of Canada might be accepted as a satisfactory adjustment. The reply was that England did not wish to keep Canada, but could not part with it without the consent of its population.<sup>1</sup>

The original area of the United States, before the Louisiana purchase, was perhaps, a million of square miles.<sup>2</sup> That acquisition, and the subsequent cession of the Floridas, much more than doubled our territory. Texas then came to us with three hundred thousand square miles, and Mexico, in 1848 and 1853, ceded a somewhat greater number. In Alaska, we received, in 1867, an addition of over half a

<sup>1</sup> *Memoir and Letters of Charles Sumner*, iv. 409.

<sup>2</sup> This is the estimate given in Morse's *American Geography*, published in 1792.

million, and thus our total area now is a little more than 3,500,000 square miles.

Canada and Newfoundland cover about the same extent of territory, or over 3,524,000 square miles, estimating for part of British Columbia not yet accurately surveyed.

At the time of the Revolution, the latest authority on American geography was the *American Gazetteer*, published in London, in 1776. It gave the total area of the North American continent, with a precision not aimed at by modern statisticians, at 3,699,087 square miles. The founders of the United States did not dream that the narrow line of States they had drawn together could in a century come to include a territory of three millions and a half of square miles, and still have beyond them another area of equal magnitude, and much of it of equal fertility and natural resources, into which to expand, in the next century. But that expansion I believe it is our destiny to accomplish, and by no other means than those of peace and mutual good will. The good faith of the nation was pledged by the Clayton-Bulwer treaty against further extension to the southward, though it is doubtful whether this is still binding upon us;<sup>1</sup> but the North American continent with every island on the east, and the Hawaiian group upon the west, all bound to it as satellites to their planet, will, if we continue in our historic policy as to annexation, eventually come under the flag of the United States.

It has been argued with great force by an eminent authority on American constitutional law,<sup>2</sup> that our plan of government makes no provision for a colonial system. But the relations of an extra-territorial possession to the United States can never be those of a colony to a European power. Such a colony has generally been treated as an appendage held for the benefit of the commercial interests of the mother country. Its trade, conducted by others and for others, has brought little benefit to its own inhabitants, to

<sup>1</sup> See Report of Senate Committee on Foreign Relations of Dec. 22, 1892, on Senate Bill No. 1218.

<sup>2</sup> Judge Cooley in the *Forum* for June, 1893, vol. xv, p. 393.

whom the navigation laws imposed upon them by a distant power have often seemed a kind of spoliation, under the name of protection.

But any possessions, separated from the continent, which the United States may acquire, can rely on being governed under some system devised for the interest of all concerned, and administered by their own inhabitants, so far as they may show a capacity for self-government.

Nor yet need we fear that the United States would not, if the occasion demanded, rule with a strong hand, when we recall the almost despotic system of administration which under the administration of Jefferson was forced upon the unwilling inhabitants of the Louisiana and Orleans territories, and maintained until they had learned the real qualities and conditions of American citizenship.

Up to the present time the cost of such of our territory as has come to us by purchase, has been, in all, as follows:

1803, Louisiana .....	\$15,000,000
1819, Florida .....	5,000,000
1848, California and New Mexico .....	15,000,000
1853, Arizona .....	10,000,000
1867, Alaska .....	7,200,000
Total.....	\$52,200,000

It has been cheaply bought, even if we add to these sums the expenditures in the Seminole War, which followed the Florida purchase, and of the Mexican War, which had so close a connection with those which came next.

The policy of annexation, up to the time of the Civil War, was mainly pressed by Southern influence, and largely in the interest of slavery. But slavery would never have been overthrown, had not the country spread out over the Northern portions of the Louisiana purchase and the Pacific coast. It was the new States, on new territory, that turned the balance against the South in the final struggle. Into them poured the tide of immigration which Southern statesmen had vainly hoped the severity of Northern winters would repel.



A Congress of Southern Governors was held at Richmond in April of this year, to devise means to attract emigrants to their section of the country. I hope their plans may prosper, but there is no stronger power in directing movements of population than that of sentiment, especially when resting on tradition.

A public sentiment against slavery kept immigration from the Southern States while slavery endured, and a traditional feeling keeps it from them still. Another generation must pass away before the Carolinas or Arkansas will be as attractive as Nebraska and Oregon, to those who seek new homes across the sea.

S. E. BALDWIN.

New Haven, Conn.

## EDWARD A. FREEMAN.

**M**ORE than a year ago, just as the April number of The Forum, with "A Review of my Opinions" from the pen of Mr. Freeman as its leading article, was passing from the press to the public, the startling announcement came that he had died suddenly at Alicante, in Spain, of the small-pox. Strange, indeed, it was that this busy man should thus have paused, just before the end of his great career, to summarize the history of his thoughts, and that that summary should have closed with a statement of the principles by which, in his own last words, "I would fain have my life and my writings judged." Wherever the principles which pervaded alike the life and the writings of the sage of Somerset are clearly understood, the fact will appear that the great influence which he so long wielded, even beyond the limits of the English-speaking world, was the result of the blending, in the rarest harmony, of intense moral conviction with a system of thought which judged all things of the present in the light of the very widest and most accurate knowledge of the past.

To those who understand the full scope and purport of Mr. Freeman's life work, some of the recent, well-meaning newspaper sketches, which dwelt mainly upon the value of his researches to the history of architecture, were almost amusing. True it is that his earliest contributions to literature were in the form of criticisms upon the beauties of old cathedrals; and his appreciation of architecture as one of the great forms of human speech by the aid of which we must read the history of the social and artistic conditions of the past, lingered with him to the last. And yet this branch of study was with him but a part of a greater whole; it was but an element, perhaps an important element, in that wide system of self-culture through which he equipped himself for the interpretation of some of the greatest epochs in human history. In his marvellous account of the Norman Conquest the chapters upon Romanesque architecture and

the Bayeux tapestry are not the leading features of the story, but they are invaluable side lights which show how careful the author was to exhaust every available source of knowledge in order to impart fullness and completeness to his narration.

Fortunate it was for English literature that a scholar, thus equipped, should have appeared upon the scene, just at the moment when it became possible for the history of the English people to be written. The English language had grown old, and English literature had passed what has been called its golden age, before any serious attempt was ever made to open up the vast domain of English history. And when the investigation was at last begun, it was prosecuted according to the method which has prevailed in the exploration of the Nile, whose course has been mapped out by explorers who have slowly ascended from its mouths to its source. Hume began his "History of England" with the accession of the house of Stuart,—the volumes which treat of the preceding period were pinned on as an after-thought. Hallam began his "Constitutional History" with the accession of the house of Tudor,—three meagre chapters on the "Middle Ages" sufficed to contain all that he knew of the preceding period. The magnificent ruin, known as "Macaulay's History of England," really begins with the accession of the house of Stuart,—a single chapter sufficed to contain all that the most brilliant and the most inquisitive of Englishmen has to say of the ten eventful centuries which precede that event. Some deep and serious reason must certainly have impelled three minds at once so acute and comprehensive to pass so lightly over the early and mediæval history of their country in order to begin their narrations in comparatively modern times. That reason is not hard to find. The truth is, until recently, the real history of early and mediæval England has remained a sealed book. Only within the last fifty years have the charters, chronicles and memorials in which was entombed the early history of the English people been made accessible; and only within the past twenty years have they been subjected to the final analysis, which has at last extracted from

them their full and true significance. Sharon Turner tells us in his history of the Anglo-Saxons, published between 1799 and 1805, that when his first volume appeared, "the subject of the Anglo-Saxon antiquities had been nearly forgotten by the British public. . . . The Anglo-Saxon MSS. lay still unexamined, and neither their contents, nor the important facts which the ancient writers and records of other nations had preserved of the transactions and fortunes of our ancestors had ever been made a part of our general history." The honest effort made by Turner to arouse his countrymen to a sense of interest in the beginnings of their national life was followed in 1800 by an inquiry in parliament, which resulted in the appointment of a commission "to methodize, regulate and digest the records." The conduct of the work proving unsatisfactory in the hands of the Record Commission, its direction was finally committed to the Master of the Rolls, who still issues official publications, prefaced and edited by the most competent critics and scholars that he can draw to his aid. And yet to a private individual belongs the imperishable honor of having been the first to bring to light the most important of the early English historical records, and to have applied to their interpretation the rich results of German research into the childhood of the whole Teutonic race.

No matter whether the Germans drove the English into historical scholarship or not, the fact remains that Kemble, who studied under the brothers Grimm at Göttingen, was the first to reject every suggestion of Roman influence, and clearly to perceive the all-important fact, now generally admitted, that the national life of the English people, both natural and political, began with the coming of the Teutonic invaders, who, during the fifth and sixth centuries, transferred from the Continent into Britain their entire scheme of barbaric life. In 1839 Kemble published his "Codex Diplomaticus"; in 1840 Thorpe published his "Ancient Laws and Institutes of England;" and in 1848 Kemble published his "Saxons in England" in which was embodied the first effort ever made to state in a systematic form the results of the new sources of knowledge which he



had done so much to bring to light. A co-worker with Kemble was Sir Francis Palgrave, who in 1832 published "*The Rise and Progress of the English Commonwealth*," and in 1851-4 the "*History of Normandy and England*."

Thus did these pioneer scholars, these path-breakers, open the way for the coming of the two great English historians who have raised the science of history to as high a pitch, perhaps, as it has ever reached, even in modern times. Not until Mr. Freeman had completed the "*History of the Norman Conquest*," not until Bishop Stubbs had completed the "*Constitutional History*," the "*Select Charters*" and "*the wonderful prefaces*," did the grand inquest into the early and mediæval history of England, which Turner, Kemble and Palgrave had inaugurated, reach a definite and final result. Not until the headwaters of the mighty river had thus been reached, not until the direction of the streams during its earlier course had been clearly mapped out by competent hands, did it become possible either for the general student of the history of the English people, or for the special student of the English constitution, to begin with the sources, and trace them without interruption to their ultimate conclusion. Until the analysis had ended, it was impossible for the synthesis to begin.

The claim will be put forward by many, that Mr. Freeman was the greatest general historian whom the English race has so far produced, and as being his most famous completed work, the "*History of the Norman Conquest*" will have to stand every test, when the claim comes to be settled. In this many-sided work is reflected, as in a mirror, not only the mental and moral characteristics of its author, but also the ripe results of that wider and deeper system of historical investigation, through which, almost within our own times, the history of every European country has been re-examined and re-expounded. Although a history of history may be a desideratum in literature, all students of the subject know that, since the end of the last century, a transition has taken place from the old artistic type,—which strove mainly after brilliancy of color and literary form, at the expense of careful research,—to the new sociological

type, which looks upon society as an organism, whose growth and decay are regulated by a system of law whose unbroken continuity binds the simple arrangements of the savage to the most complex conditions of the modern state,—a method of thought by which it is possible to demonstrate that the Federal Republic of the United States is the lineal descendant of those ancient German tribal federations of which we catch our first glimpses in the pages of Caesar and Tacitus. Although the tendencies which set the new method of historical investigation in motion were greatly accelerated by the social upheaval incident to the French Revolution, not until after the peace of 1815 was its direction undertaken in France by the Thierrys, Michaud, Sismondi, Guizot, De Barante and Michelet.

From France the torch passed into Germany and from Germany, by the hand of Kemble, into England. The new explorers, intent upon investigating the entire past of man, were not slow to enter into the neglected and misunderstood domain of the Middle Ages, and thus was removed the unnatural barrier which broke the unity of history by an arbitrary division of the annals of ancient from those of modern times. We have Mr. Freeman's word for it, that, under the influence of the new method, all historical writings, anterior in date to the end of the last century, have been superseded or become obsolete, with the exception of Gibbon's alone. The workers in this new school, which has thus brought about such marvellous results, are divisible into two classes: first, those who work upon the sources, and who extract from them, through a kind of laboratory process, their full and true significance; second, the more philosophic thinkers who build upon the facts, thus ascertained, broad and comprehensive generalizations. The work of this latter class has been perhaps most advanced by the use of the comparative method, which has been applied with brilliant success to the comparative study of language, mythology and politics. By the aid of comparative philology, the original race unity of the Aryan world was established, if it has been established; by the aid of comparative mythology the belief in that unity has been greatly strengthened; while by the aid of compar-

ative politics we have been able to ascertain, in the words of Sir Henry Maine, that the village community was the original unit of political organization from Ireland to Hindostan.

Mr. Freeman, in whose work by that title the science of comparative politics found its name, has taught us more clearly than anyone else that the key to the history of states is to be found in the history of their political institutions; a truth which he has emphasized by the maxim, which the historical students at the Johns Hopkins University have set up over their library, that "History is past politics; politics are present history." In that work he has told us that "a political constitution is a specimen to be studied, classified and labeled, as a building or an animal is studied, classified and labeled by those to whom buildings or animals are objects of study. We have to note the likenesses, striking and unexpected as those likenesses often are, between the political constitutions of remote times and places; and we have, as far as we can, to classify our specimens according to the probable causes of those likenesses." Thus imbued with the importance of the comparative method to the study of political institutions, he undertook its application upon the very widest scale, when he drew the outlines of his work upon the "History of Federal Government," in which he proposed to study and compare the four most perfect types of the federal idea, which have so far existed: the Achaian League; the Confederation of the Swiss Cantons; the Seven United provinces of the Netherlands, and the United States of North America.

The greatest misfortune in Mr. Freeman's literary career consists of the fact that he only completed the first volume of this, his most important undertaking, which volume is confined to the history of the Greek leagues alone. For the first time the history of federalism was undertaken by a competent hand, and what was accomplished makes us the more sensible of what has been lost. Passing beyond the Greece of Thucydides into the Greece of Polybius, passing beyond the period in which the independent city-commonwealth was the dominant political idea, into the later and less brilliant period of Hellenic freedom occupied by the history of Greek feder-



alism, he has put before us in a tangible form the history of at least one federal league whose internal structure entitles it to rank as "a composite state," not because it had passed beyond the requisition stage, but because its central or national government acted directly on the citizen. His careful analysis of the constitution of the Achaian League seems to have clearly established the fact that its government was really national; that there was an Achaian nation, with a national chief, a national assembly and national tribunals, that every Achaian citizen owed a direct allegiance to the central authority as a citizen of the league itself, and not merely of one of the cities that composed it. And yet while the author concludes that this ancient league represents the closest approach to the perfect federal idea which had ever been made prior to that embodied in the present constitution of the United States, he is careful to say that the history of the one had no direct or conscious influence upon the making of the other,—a conclusion which he strengthens by a citation from the *Federalist* (No. XVIII), in which we are told that "could the interior structure and regular operation of the Achaian League be ascertained, it is possible that more light might be thrown by it on the science of federal government, than by any of the like experiments with which we are acquainted."

The attempt has now been made to indicate in a general way the conditions under which English history has been written; the point which had been reached at the time of Mr Freeman's advent; and the mental training and historical method with which he was equipped when he entered upon the task of telling, as it had never been told before, the story of the Norman Conquest, its causes and its results. Within the limits of the five volumes which he has devoted to the subject he has undertaken to unfold the whole story from the Teutonic conquest of Britain to the reign of Edward the First. Such an undertaking necessarily involved: first, a complete history of the migration and settlement of the Teutonic invaders who came from the Continent into Britain, between the middle of the fifth century and the end of the sixth, and established in the island world "a Germany



outside of Germany;" second, a history of the Scandinavian pirates who settled upon the coast of Gaul, and there built up the famous Norman duchy, embracing "the creed, the manners and the language of their French neighbors, without losing a whit of the old Scandinavian vigor and love of adventure;" third, the Norman Conquest of England by William the Bastard; fourth, and most important of all, the history of the process through which the Old-English substructure, intrenched in the strongholds of its local, self-governing communities, survived the assault and arose at last triumphant out of the death-struggle, with its race identity, its language and its political constitution enriched in every part and yet undestroyed. So far as race identity is concerned, Mr. Freeman never grew weary of proving that the conquerors were conquered, that the Normans became Englishmen; so far as language is concerned, we have Max Müller's word for it that "the grammar, the blood and soul of the language, is as pure and unmixed English as spoken in the British Isles, as it was when it was spoken on the shores of the German Ocean by the Angles, Saxons and Jutes of the continent; as far as political institutions are concerned, we have Bishop Stubbs' word for it, that "the German element is the paternal element in our system, natural and political."

In executing the manifold tasks which such a wide and varied theme cast upon him, the author of the Norman Conquest undertook to discharge all the functions necessary to the complete application to his subject of the method of the historical school to which he belonged. First of all he did not shrink from working upon the sources; as his clear, painstaking and exhaustive expositions of that wonderful chain of documents, which extends from the English Chronicle to the reign of Edward the First, fully demonstrate. His appendices, embracing all the vexed questions involved in his narration, are mines of knowledge which the specialist can work without limit and without exhaustion. And yet it is not until after he leaves the scriptorium of the source-worker, and rises into the higher air, in which he can spread the wings of his broader capabilities, that we see him at the

best advantage. In the wide sweep of his historic vision the Teutonic tribes which coalesced in Britain in the formation of the English people were never severed from the greater mass which they had left behind them on the continent, and that greater mass was with him but a subdivision of the great Aryan household, whose members were of equal interest whether they dwelt upon the shores of the Mediterranean or the Baltic. To him the kinship between the Greek and the Teuton was a real thing, and to the study of their language, history and institutions he devoted the best efforts of his life. And yet, wide as was his perspective, no writer was ever more deeply imbued with local attachments, no narrative ever more deeply colored than his with the attractive hues of genuine national feeling.

Above all things, Mr. Freeman was an Englishman, and by that he understood that he was a lineal descendant of the original "English Kin," who were settled in the land in the days of King Ælfred. Nothing can be more touching than his perfect oneness with, and admiration for, that pre-Norman England, of which, when he tells that portion of his story, he makes himself a part. To him the coming of the Danes was an event of yesterday, and into the fight which his hero Ælfred wages against the plundering Northmen he enters with a vivid earnestness which becomes contagious. And yet it is to his later hero, Harold, the last national champion of the older England against the invader, that he gives the full measure of his zeal and patriotism. From the time that Harold turns from his great victory at Stamfordbridge, and begins his march to the south to meet the Normans under William, the interest is at fever heat, and that interest never flags until it is lost in something very near akin to emotion as we read how on the heights of Senlac, "Harold still fought; his shield bristled with Norman shafts; but he was still unwounded and unwearied. At last another arrow, more charged with destiny than its fellows, went more truly to its mark. Falling like a bolt from heaven, it pierced the King's right eye; he clutched convulsively at the weapon, he broke off the shaft, his ax dropped from his hand, and he sank in agony at the foot of the Standard." All the passionate resent-

ment, which might have fired the heart of one of Harold's followers against the two treacherous northern earls who failed to come to the King's aid at the critical moment, breaks from the author's lips as he tells us how "the faithless sons of Ælfgar came not to King Harold's muster." It is admitted by all the most competent critics that the description of the battle of Senlac, or Hastings, is one of the most artistic and vivid specimens of word-painting in the English language, whatever questions may be raised as to its accuracy in certain points of detail. In this account William and his followers do not suffer. By the brilliance of the Norman, Mr. Freeman was always dazzled, and nothing that he ever wrote exceeds perhaps in pathos or in beauty, that sketch contained in the first volume, in which he tells us how the Norman everywhere conquered and then everywhere vanished. "The Norman has vanished from the world, but he has indeed left a name behind him. Of him came Richard the Fearless and William the Bastard; of him came that Robert whose foot was first placed upon the ransomed battlements of the Holy City, and that mightier Robert who in one year beheld the Cæsars of East and West flee before him. And of his stock, far more truly than of the stock of Imperial Swabia, came the wonder of his own, and of all succeeding ages,—poet, scholar, warrior, legislator, the terror and the marvel of Christendom and of Islam; the foe alike of Roman Pontiffs and of Moslem Sultans; who won alike the golden crown of Rome, and the thorny crown of Salem; dreaded in one world as the foremost champion of Christ, cursed in another as the apostate votary of Mahomet—the gay, the brave, the wise, the relentless, the godless Frederick."

In working out his conclusions as to the results of the conquest, in pointing out the extent to which the Old-English fabric, social and political, was modified and enriched, without being destroyed, by infusions from Norman sources, Mr. Freeman found perhaps the very best opportunity for a display of his critical and analytical powers. By his chapters on "The Political Results of the Norman Conquest," on "The Effects of the Norman Conquest on Language and



Literature," and on "The Effects of the Norman Conquest on Art," that statement may be fully verified.

When, therefore, this marvellous work is viewed as a whole; when the critical skill with which its materials were examined before they were accepted as trustworthy is taken into account, when we adequately comprehend the broad and comprehensive method by which they were combined into an harmonious and logical whole,—there can be but little left for the most exacting to require.

And yet there is still another element of excellence which illumines and adorns the whole, which has so far been passed by in silence. No well trained student of the English tongue can fail to perceive that, in the mere matter of style, Mr. Freeman must be ranked among the masters of our modern English prose. The hypercritical, who refuse to permit repetition for the sake of emphasis, may find some fault with him on that account; but when that has been said, all has been said. No man ever wrote with greater clearness or purity; no one has ever to guess at what he means; he is ever faithful to what he once said was the greatest of all literary canons,—that one laid down by Mr. Chucks in "Peter Simple,"—"Spin your yarn in plain English."

And yet no one was ever more careful than he to adorn and emphasize his narrative with the strongest and most musical terms which the language contains, always preferring pure English words to foreign derivatives. A deviation from this rule offended him even in the speech of the common people. One day when we were together at the Lindell Hotel in St. Louis, he told me that upon his arrival the servant who was sent to select rooms for Mrs. Freeman and himself asked: "Where shall I locate you good folks?" With a twinkle in his eye he said: "I damned him for the "locate" but pardoned him for the "folks." He then explained that the sense in which the word "locate" was used by us was entirely unknown in England. And he further remarked that the word "fall," which we still properly use, as it was used in England at the time of the migration, had been improperly superseded since then in the mother land by the word "autumn." Another illustration of the same kind he found



in the word "meeting-house," which, while it has survived in its original sense in this country, has been entirely superseded in England by the word "chapel."

During the years 1881-2 Mr. Freeman made his last visit to the United States, passing some seven months with us, studying into and reflecting upon the various phases of our complex national life. He went as far west as St. Louis, and during his sojourn there it was my privilege to form with him an acquaintance which gradually ripened into a friendship which was to me of the very greatest value. In his "*Impressions of the United States*," published shortly after his return to England, he said: "I know not whether I ought to tell how one gentleman did me the honor to come all the way from Mobile to St. Louis, a distance about as far as the whole length of Great Britain, merely to make my acquaintance. I felt abashed, as I had certainly never taken such a journey to meet any continental or American scholar." Long as the journey was, I felt more than repaid by the pleasure and profit I derived while dwelling with him for nearly a week under the same roof. The thin crust of his English reserve was at once broken, so soon as he discovered that I was a worker in some of his favorite fields, and that I had sought him, not from mere curiosity, but for advice and instruction. No man was ever a more patient listener or a more willing teacher,—the mental sympathy which grew out of common pursuits at once opened the doors of his heart. He soon made me perfectly at ease with him, and that pleasure was greatly enhanced by the frequent presence of Mrs. Freeman, whose rare mental gifts added much to our conversations.

I was then hard at work upon my "*Origin and Growth of the English Constitution*," the scope and purpose of which I discussed with him in detail. The earnest words of encouragement and approval which I took away with me enabled me to renew my task with fresh hope and with a lighter heart. During the years that followed our parting, he never lost interest in my undertaking, and, no matter in what part of the world he happened to be, he never failed to send me a letter, whenever anything occurred to him which

he thought might prove of value to me. Such was the warmth of his interest in those to whom he was really drawn.

In talking with him about his contemporaries in England I soon discovered that nothing could exceed his generous and unselfish admiration of those to whom he gave his confidence and approval. To his brother-scholar, the Bishop of Oxford, he could not give sufficient praise. He awarded to him the honor of being the greatest master of English history,—an honor which all the world concedes to him, within the domain of his own choosing, that of constitutional history. Of the late John Richard Green, the author of the "*History of the English People*," who was then among the living, he expressed an admiration that was enthusiastic. Towards his friend, Prof. Max Müller, of whom he spoke as Max, it was plain to see that he was bound not only by admiration, but by affection. He said that, when his German origin was taken into account, his "*Science of Language*," considered merely as to style, was a marvel of pure English prose.

And yet, like all strong lovers, he was evidently a good hater. The bright lights which shone upon his friends turned into shadows as they fell upon his foes. Being fully informed as to his hostility to one of his contemporaries, whom he had once in a critical essay torn limb from limb, I asked him what estimate he put upon Mr. ——— as an historian. After reflecting for a moment, he said, with a peculiar cast in his eye, "I tell you this as to Mr. ———. Whenever you read anything that he writes, read it with care: store it away in your mind; and never forget it. For then you will know one thing for certain, and that is, that by no possibility did it ever happen in that way." I knew then that he was human. In politics he was equally pronounced and emphatic. While he never wearied of praising his ideal chief, Mr. Gladstone, he did not hesitate to say in print not long ago, that "this Robert Cecil, Marquis of Salisbury, is the most mischievous man in all England."

Where the mortal remains of this world-famous thinker are to find a final resting place, I know not. If certain prejudices are ignored and justice done, sepulchre will be offered them in the "*West Minster*," in that "*church of Eadward*"

which was ever the most cherished object of his thoughts, and whose earlier history he has embalmed in deep and solemn passages, which move the heart like the voice of some ancient prophet trembling through the psalms. Within the hallowed precincts of the national shrine, upon the hearth of the English nation, should be laid the ashes of England's greatest historian.

HANNIS TAYLOR.

Madrid, Spain.

## THE TENDENCIES OF NATURAL VALUES.

**D**URING its youth political economy was mainly a theory of prosperity: it inquired into the "causes of the wealth of nations," and sought the cause, "by which . . . any society of human beings, in respect to this universal object of human desire, is made prosperous or the reverse." With Ricardo, political economy became a theory of values. During the Industrial Revolution that came between Smith and Ricardo social values had been silently but swiftly displacing the private values of the earlier economy. With the emergence of this great order of industrial phenomena it was impossible to attend so exclusively to the nature and causes of national prosperity. Whence come these values that prevail over such wide areas and govern the exchanges of such vast quantities of wealth? Whose will lies behind them? How are they fixed? How is it that the value movements of the same commodity in different markets synchronize so well? In what way are values determined by men's production? In what way do they determine men's economic rewards? The distribution of wealth they effect—is it just or unjust? Thus the origin, constitution, laws, and tendencies of values become the characteristic problem of economics. The effort to master the subtle and baffling phenomena of social value, to discover why goods, whether intermediate or final, exchange for each other as they do, has for three quarters of a century tested the powers of the highest minds.

The solution of the value problem is the cardinal task of economic science. It stands at the center, and to solve it is to solve the remaining problems. Arising at the place where wants and goods mutually intercept each other, value can be mastered only by tracing the determinants of each. It involves production, seeing production shapes itself with reference to securing maximum value. It involves consumption, seeing consumption shapes itself with reference to expending minimum value. It is distribution, seeing that a



value is always somebody's reward. With individual production, the producer's reward varies with the value of his product. With social production, it varies with the value of the intermediate goods or services furnished by the coöperator. What is interest but a category arising when present goods are valued in terms of future goods? What is wages but the value of labor in the labor market? What is rent but one of those causes of differential gain, not determining but determined by value? What are business profits but another of those differential gains? Production is individual and physical as well as social; consumption is individual and psychological as well as social; but values are an order of phenomena strictly social. Values are literally social institutions, and its attention to them is the main warrant for including economics among the social sciences.

The first conclusion regarding market values was that they play about certain Natural Values, and that these Natural Values are *equal to* costs of production. It was next held that these Natural or Normal Values are in *proportion to* respective quantities of labor and uses of capital required, or, in other words, to cost of production. Articles with the same cost of production have the same value. But no sooner had a law been reached than exceptions became necessary. Ricardo noticed that the law did not apply to goods by their very nature not multiplicable, such as coins, curios, works of old artists, etc., to money when a seigniorage is charged, to agricultural products, or to goods produced at an increasing cost. Mill excepted products of different countries, and products having a joint cost. Cairnes showed that the services or products of different non-competing groups do not exchange in proportion to their respective costs of production. Walker deduces that, in the case of products requiring the services of entrepreneurs, only the goods made by the no-profits entrepreneur can be said to obey the law of cost. To this list we may add two more exceptions which are at present rising to general recognition. Prof. H. C. Adams has proved that, in industries of increasing return, the value of products will not bear a constant relation to cost. Prof. Böhm-Bawerk has shown

that the value of present goods, exchanged for future goods, does not stand in any necessary connection with that cost of production known as abstinence.<sup>1</sup>

The effect of this diligent study of economic life was to exclude group after group of actual values from the compass of Normal or Natural Values. Real values were divided into two great classes, the one a kind of patrician order, embraced within the classic and orthodox formula of cost of production, the other a heterogeneous mob of exceptional, anomalous, plebeian values, excluded from the sacred circle of pure economics, and granted only such scanty explanation as was offered by the law of supply and demand. Finally, as in old Rome, so here, the pressure of the outlawed, neglected cases upon the bounds of law and authority became too great; there had to be an irruption of the body of unexplained values into the field of economic theory.

The first step, preliminary to the widening of doctrine, was to show that labor, admittedly the typical constituent of cost, is not the basis, cause, or essence of value. So long as value seemed to have its root in cost, it was natural to conclude that among articles freely producible equal values flow from equal costs, and difference in value proves difference in cost. But with the accumulation of a large residuum of cases where value plainly persists with low cost, or no cost at all, with a growing multitude of anomalous value-phenomena knocking at the gates of economic theory and imperatively demanding admission, a new analysis was required. So Jevons studied consumption, and discovered the declension of utility and the identity of marginal utility with subjective, individual, or private value. Then the Austrians analyzed the market, and found that objective, social or market value lies between the valuations of the marginal pairs of buyers and sellers, is, in brief, practically identical with the Marginal Utility of the article to the Marginal Buyer (or consumer). With this the great enigma was explained.

<sup>1</sup> Prof. Patten has described the development of the cost theory very clearly in his "*Theory of Dynamic Economics*."

The earlier thinkers had sought in vain to root value in utility. Not noticing the declension of utility with increase of quantity, they had been puzzled by the low value of the so-called necessities and the high value of the luxuries. Again they might review the whole circle of consumers without finding value in use, or utility, coinciding with objective value. As subjective value to individuals seemed to stand at all levels above value, but was rarely identical with it, it was held impossible to base value on utility. A thousand pianos, sold to-day, will have a thousand different utilities. If value of each is as its utility, there should be a thousand different values; while there is in fact but one! Can you found one value on a thousand different utilities? Or, if you select one utility, then *which* utility? Why that of A rather than that of B?

To this old riddle the new economists had a triumphant answer. Which utility! Why, that of the marginal consumer of course. The marginal utility to the marginal consumer—that is in brief the value of a consumption good in the market. That mysterious, all-prevailing value that governs the estimations and exchanges of a million measures of a commodity offered in a hundred communicating markets, rests on a pivot, and that pivot is its putative subjective value to the marginal buyer. This becomes the social value and supersedes all other private values. Society determines values, but her agent is the Marginal Buyer. He is the price-fixer, the valuer. As supply grows, a weaker buyer fixes value: as supply shrinks, the valuation of a stronger buyer becomes the standard. Given the scale of buyers, and the moving margin of supply automatically picks out the man that shall be the marginal buyer and hence the price-fixer. Thus the old unsatisfactory Law of Supply and Demand, in which value hung suspended and baseless, rooted neither in cost nor in utility, is developed into the Law of Marginal Utility, true of all values whatsoever.

The discovery that value is a particular utility was so brilliant and important, that for a time men forgot that only half the problem of normal value had been fully solved. Value is marginal utility. Very well. But what locates the



margin on the scale of utilities? Why is actual supply broken off at just this point, so as to expose just this particular utility? or, if you please, this particular buyer? Why is A made marginal buyer instead of B?

The answer to this has been to treat Supply as Demand has been treated, to endow the sellers with a scale of subjective valuations as well as the buyers. It is then easy to point out that supply is broken off when the valuation of the strongest excluded seller exceeds that of the strongest excluded buyer. But this explanation breaks down in the presence of actual conditions. Where, as with modern division of labor, goods are produced solely for exchange, the elaborate apparatus of subjective sellers' valuations finds no counterpart in reality. It is true that, with decline of market value, would-be sellers successively withdraw and thus adjust supply. But it would be idle to suppose they have resolved to consume their own goods. The reserve valuations of sellers relate not to use but to the probable course of market-value in the future. Assuming constant demand, the seller can be regarded as acting with reference to the future course of supply. Now this is nothing else than the path of a moving equilibrium between the constant reinforcements due to production and the steady depletions due to consumption. The supply of the moment, then, depends upon sellers' reserve valuations. But these in turn depend, not, as some suppose, upon utility-estimates, but on the probable course of future supply, i. e., *dynamic supply*.

Now Dynamic Supply is partly fixed by the influences that determine what portion of the free productive powers of the community shall be devoted to the production of the article in question. So, if the philosophy of Demand requires the doctrine of utilities, the philosophy of Supply reintroduces the doctrine of costs. Recent thinkers, therefore, feeling the lameness of the Marginal Utility theory in explaining the constitution of Dynamic Supply, have striven to restore the cost concept to its rightful place in the philosophy of value.

The new school does not derive value directly from labor or cost, for only indirectly can cost affect value. The thought



is that with freedom of competition, perfect omniscience and mobility being supposed, human beings under the spur of self-interest will so direct their productive powers as to secure the largest possible surplus above subjective cost. This means that they will so dispose their capital, energies, skill, etc.—that the last application at any point, or in any way, will presumably secure as great a surplus as the last application elsewhere, or in any other way. From this we deduce that the normal value of goods, freely producible, must be in proportion to the cost of the most expensive portions of their necessary and regular supply. Such is the law of normal value, when supply is dynamic, and the flow of the productive powers of the community is free. Where, as in the case of goods not regularly produced, the supply is not dynamic, there is no normal value, market-value being fixed by the subjective valuations of the marginal pairs. Where supply is dynamic but monopolized, supply will be kept below normal, and value, losing all touch with cost, will be manipulated to a point calculated to yield maximum net revenue.

The upshot of all this is, that only the marginal portions of the supply of freely produced goods can any longer be held to tend toward a value proportionate to their cost. The universal conformity of values to costs, which many have supposed to hold true of all goods and services, proves to be a myth. Where the earlier thinkers saw a series of producers, equal in personal abilities, opportunities, and situation, supplying the market with goods of uniform cost, we now see a body of men, differing greatly in capacity, opportunity, and advantages, regularly producing goods at different costs, to be exchanged at a rate that will normally just cover the greatest of these costs. Where the classic economists saw the members of a perfectly mobile society entering with full freedom and security into any and every branch of production, and so disposing their powers as to bring the normal values of all goods into the same relation to their respective costs of production, the modern thinker sees a society halting dubiously before an industrial field, of which the richer portions are already seized by monopolists, pro-

tected by all kinds of natural barriers, legal ramparts, and party walls against effective competition from without. The significance of this new point of view is that it reveals to us the profound gulf between actual values and theoretical values. Men have conceived the natural and automatic arrangement of economic life as one in which each producer receives according to the amount of his product, each man is rewarded according to his works. But we now see everywhere differential gain and monopolist's profit. The economic surplus that was at first denied, and later was supposed to be spread evenly and equitably by economic forces over the whole field of industry, now not only proves to be a larger and ever larger share of total value, but furthermore appears to collect in certain pools or flow to the bottom of certain drainage basins.

Such has been I conceive the course of economic theory.

My task is now to find the cameo of this intaglio, the objective transformation that has caused this subjective revolution, the evolution of facts that underlies this development of theory. If our science registers the successive phases of the economic life, if the course of economic doctrine mirrors the movement and unfolding of industrial institutions, we may count on finding an actual movement of values corresponding to the revolution in doctrine I have described. Some there are, I know, who will deny this, on the ground that the shiftings of our science have been due, as in the natural sciences, not to change in the subject matter, but to closer observation of it. Not the objective phenomena have changed, but our knowledge of them. But this view I believe is unjust to the great founders of the science, and blind to the deep significance for practical purposes that men more and more attach to the study of the social sciences.

*What then has been and is the course of development of actual values? What has been the influence of progress upon the relation of values to costs?*

The competitive system has been insensibly creeping upon us for centuries, but only within the past six score years has it hastened to display its true tendencies. Within

this time the world has seen a stupendous revolution in industry, resulting in an economic organization unparalleled in the history of the human race. The joint initial causes of this revolution were the cheapening of transportation, and the introduction of the factory system, in connection with power machinery and the division of labor and an increase in the density of population. The first effect of these changes was the Delocalization of Demand. Until this time, demand for nearly all the substantive goods of life had had to present itself in local and neighboring markets. The expense of carriage forbade its seeking supply in distant localities, except for the purchase of luxuries or the more easily transportable commodities of common use. Localization of industry there was little, seeing manufacture on a large scale with all its victorious economies was as yet impossible. The few places devoted to the making of special wares could be for the most part little more than aggregates of small producers, working by simple and primitive methods. In the main, each district was self-supporting, and the few producers in a given industry, such as milling, or cabinet-making, knew no competition save that of workers on about the same level as themselves. Differential advantages were few, and the victory of a producer of unusual abilities, or opportunity, was limited either by the difficulty of large industry or the narrowness of the accessible market. Men were but slightly differentiated, and the superior worth of one man over another came mainly by way of unusual intelligence and skill in his craft. The industrial mechanism was simple and the opportunities for rare ability to win an inordinately large fortune were few. Men were brought into comparative equality, because the field for personal talent was narrow or did not exist. Consequently values were in close relation to labor-and-waiting cost, and men's rewards measured in a rude way their exertions and their technical skill acquired with much cost of time, effort, and self-denial. The distributive system, therefore, achieved a fair measure of justice, and commended itself to the reason and conscience of the age. It was one that gave to the desirable qualities of character—honesty, intelligence, taste,



skill, forethought, diligence, originality—a fair degree of encouragement.

It was now the fate of this old economic order to be broken to pieces by a swift succession of changes that, in two or three generations, have filled the world with an unprecedented abundance of wealth, and profoundly modified most of our political and social institutions.

A cheapening of transportation, translated into its economic significance, becomes the Delocalizing of Demand. With easy transport, Effective Demand is no longer domiciled with the consumer. No longer is it as dispersed as the population. Lower the fare and Demand travels. The demand for fuel may present itself, wherewithal in hand, a hundred miles from home. That for food may appear a thousand miles from its origin. That for stuffs and cloth may migrate to other countries and to other continents. Formerly Demand lay quiescent at the bottom of a valley hemmed in by an insurmountable barrier of freight charges. Now these are levelled away, and Demand becomes as placeless as a drop of quicksilver on a polished steel plate. No one can now say "Demand is mine." Nobody is sure of keeping it, once gotten. It is now the goal of all, the possession of none.

The effect of the Delocalization of Demand is to extend competition. The local producer is no longer assured of his home market. The wall that protected him from outside competition is down, his easy monopoly of supply is forever gone. Cry out as he may about "public spirit" and the "duty to patronize one's neighbor," he finds Demand finicky, and hard to please, and prone to wander. Hitherto he competed mildly with his fellow workers within a narrow district,—men of about the same grade and working under about the same conditions as himself. Now he finds himself forced to battle with strange competitors. At first the wares from another county are sold to customers at his very door. But as, with the lowering of freight rates, the mobility of Demand increases, and its circle of movement widens, he finds himself brought within dangerous reach of larger and ever larger zones of alien producers: and he,



who began by jealous contest with his fellow countrymen, must now prove his mettle in competition with men on the other side of the globe, of a different race, religion, and social organization from his own.

With the *growing extent* of competition comes a *deepening intensity*. Just as a number of drops of quicksilver, dispersed on a smooth metal plate, would, if all accidental obstacles were removed, collect in course of time in a mass and seek the point of greatest attraction, so the multitude of little local demands will tend to run together, as transport improves, and pour toward the point where supply may most advantageously be secured. The effect of this fusion is profoundly to alter the character of competition. The local producer finds himself at once depressed and stimulated by the workings of the revolution in transportation. On the other hand, he has lost his assurance of the local market, and at every point is confronted by hosts of competitors. On the other hand, invasion is a game that two can play at. If outsiders endanger his aforesaid business, it is at the same time possible to carry the war into the enemy's camp. If the goods of others can reach his home market, why may not his goods reach outside consumers? The range of his competitors measures the range of demand he might draw to himself, could he but excel his rivals.

In the days of domestic and small shop industry the victory of the ablest competitor could be but barren, no matter how much demand might become detached from locality and blending with other detached demands flow hither and thither. The overgrown industry, lacking in organic unity and no longer vivified in every part by the watchful eye and keen interest of the master, soon lost to its proprietor his advantage in ability, so that competition resulted in a victory for certain localities possessing some advantage in nature, or in the skill and traditions of the laboring population, rather than in a victory for a certain establishment. But with the minute division of labor, the great mechanical inventions, the steam engine, and the use of power machinery, it became possible for the size of an enterprise to keep pace with the extension of the market. Industries that had

been hitherto of stubbornly diminishing returns, now became of constant or even of increasing returns. The shopman, the craftsman, the handworker, the independent producer, had to give way to the great machine industry of the factory, the "works," the mammoth establishment where thousands of workmen were massed, grouped, graded, regimented and organized for the making of vast quantities of a single line of goods.

The feasibility of production on a large scale lends a new significance to the formation of an Aggregate Mobile Demand. In many lines it becomes possible for a single manufacturer of extraordinary talent to capture the whole field and bar out all rivals. The glittering prize of the Demand of a whole state or an entire nation swings temptingly before the eyes of each individual, and spurs him to his supremest effort. One man's plow cuts the furrows in a hundred thousand fields. Another supplies farm wagons for perhaps a third of the entire Northwest. One man makes millions by selling his brand of coffee across nearly every grocery counter in the Union. The market for steel pens is almost monopolized by another. A third is able to allure to his manufactory an enormous aggregate demand for toilet soap. The ability to supply a million families with breakfast cocoa is the foundation of the fortune of a fourth. A nurseryman wins national fame by the excellence of his garden seeds. The manufacturers in the centre of a certain hard-wood district are able to ship their furniture to every part of the country. A powerful refining company in America wrests the oil market in China from its Russian competitors. A Chicago firm induces a large European demand for canned beef to come to its doors. The fortunate maker of shoes sees his "make" expelling other styles in innumerable markets. The producers of ready made garments can take the moiety of the clothing trade from the hands of the local tailor, and concentrate it in a few centres. Certain brands of crackers, canned fruit, mustard, cocoa, oatmeal, preserved meat, etc., are to be found anywhere within the rim of civilization.

With the delocalizing of demand and the localizing of supply, attending the growth of industry on a large scale, the character of industrial competition undergoes profound change. Under the old system the competitors were few and near, the market contended for was narrow, and, owing to the fact that beyond a certain point, soon reached, nearly all industries were subject to the law of decreasing returns, the reward of success was not dazzling nor was the penalty of defeat crushing. The mild type of competition survives in agriculture, for as yet farming is a business that soon reaches the point of decreasing returns. Though acre be added to acre, the limit of profitable concentration is eventually reached. Hence no farmer fears lest a neighbor steal his market from him. Only infinitesimally can the heavy crop of Farmer A break the market for the lighter crop of Farmer B. The offensive savage warfare that seeks to injure or damage the productive power of one's rival can have no place in the farming occupation. There competition, if it consciously exist at all, is but a mild and innocent rivalry to excel in quantity or quality of crop. Throughout most of the extractive industries there is no natural place for the destructive, unscrupulous competition that sears the conscience, erodes the moral character, and dissolves social ties.

Far different is it in the elaborative industries, where expansion no longer pays the penalty of increasing expense. Here the competitors may be numerous, distant, and alien, of unknown practices, methods, and scruples. The market fought for may be a certain stratum of consumers throughout the civilized world. The prize of success may be a partial, a temporary, or even a complete monopoly of supply of a given commodity, insuring millions of gain and all the luxury, honors, power, and distinction that great wealth can command. The punishment of defeat is not simply stagnation and mediocrity, but absolute ruin. And so, as men face the rule-or-ruin alternative, with the temptation of fortune on the one hand, the bitterness of failure on the other, competition between them takes on a new form. Conservative emulation yields to ferocious, relentless warfare. Diplomacy, strategy, artifice, are as important as quantity and quality



of output. The suit for public favor is a fight to cripple or disable one's opponent, rather than a race to be won by excellence. In a struggle to win and hold a fickle demand, where a hair's weight may decide the battle, it is natural that the contestants should often force each other across the line that sunders right from wrong. In modern business, where great markets are striven for, a conscience is a burden, a scruple is a handicap. Hence the advantage of the meanest man. Hence the moral dualism, the industrial Bedouinism, the "ethics of trade," the depravity of business, the degeneration of competition into license and predatory warfare.

I have cited the lamentable but familiar workings of competition in these lines of production where demand is most placeless and concentration most feasible, not as a text for moral discourse, but as the surface sign of a deep and hidden tendency. I count the degradation of competition in these particular departments proof positive of the magnified importance attaching in this competition to the quality of prudent and enlightened unscrupulousness. If the premium on sharp practice be so great, if the advantage of conservative crookedness be so indisputable, if the emphasis laid on moral obliquity be so strong, may we not infer that the degree of disadvantage and embarrassment imposed by a sensitive conscience or a sense of fair play is greater now and here, than under former conditions, or in other departments of production? And if the advantage of a dull moral sense be so great, how much greater must be the advantage of intellectual keenness, insight, foresight, mastery of details, courage, persistence, knowledge of character, concentration, ambition, sound judgment, swift decision, executive ability, and the other qualities that are serviceable in the race for wealth! Must not these acquire a new importance as well as moral suppleness and slipperiness?

The result, then, of the Industrial Revolution can not be other than the exaggeration of differences. The lengthening radius of competition magnifies a difference between men just as the longer range of a shot magnifies a swerve of the rifle barrel. As sickness tries a man's constitution, and as adversity tests his character, so sharper competition



brings to light the hidden strength or weakness of his economic situation. Factors once unnoticed come to be decisive. Traits, supposed neutral, are seen to aid or handicap. Trifles, details, minutiae acquire importance. Trivial excellences award success, and slight advantages prove momentous. Demand, more and more sensitive, like the beam hung on agate edges, turns at the difference of a hair. When competitors, actual or potential, are so many and so close-crowded on the scale of excellence, slight indeed must be the superiority of one preferred to those that are left. The competitive system ever more critically selects and mercilessly discriminates. The once equal it distinguishes. The once alike are sundered. *In brief the system emphasizes and exaggerates differences in advantage by ever increasing differences in reward.*

This is true of differences of advantage in Nature.

Take water power for instance. Before the days of the railroad each locality must to a great extent grind its own grain with its own water power. Carriage was expensive, and the best local milling site, whether good or bad, enjoyed a value proportionate to the size of the local market. The most inferior water power, if the best in its district, was sure of the local custom: the most superior, such as that of Rochester, or of Minneapolis, could hope for little more. Competition existed only in a strip of debatable territory between local grain markets. The mill with the better power could widen a little the boundaries of its territory: the one with the worse suffered a narrow market. That was all. This was the era of dear transportation, localized demand, unlocalized supply, small industry, feeble competition, and relative equality. Differences in efficiency, corresponding to given differences in waterpower, were small, and differences in value between different mill sites were consequently slight. Note now the differentiating effect of the extended and intenser competition of the railroad era. The neighborhood flour mill is closed. The falling water is idle or else supplies power for a saw mill, a lighting plant, or a trolley line. The value of the water right has fallen or at best remains about the same. The flour of the commun-

ity is now ground in great mills such as the "Pillsbury A," at Minneapolis. Cheap freights have widened the market, and at points of unusual advantage, such as Rochester, Minneapolis, St. Paul, milling has multiplied a thousandfold, and the value of water power reaches fabulous sums. The result is that the increase in total value of the mill sites of the country has not been spread out evenly, but has gone to a few of the most superior.

The same differentiating and dispersive effect of competition is seen in the changes in the value of coal mines, of quarries of marble, granite, or gypsum, of salt beds, of oil or timber lands, and of lands adapted to sugar cane, vines, coffee, cotton, wheat, or fruits.

The law is true of differences of advantage in men. The competitive system exaggerates differences in managing ability. The method of production on a large scale abolishes self-direction, and substitutes the control of an industrial captain. The skill of the captain is tested in securing the right grades of subordinates and operatives, in the allotment of tasks, in the choice of processes, in the utilization of waste, in the organization of business, in the disposal of the product, in the forecast of the market, and in innumerable other ways. Now the massing of labor and capital in a single enterprise enlarges the field of loss or gain in management. The margin of difference between the results of mediocre management, and those of exceptional management may be two per cent. of the entire product, when men produce in slightly organized independent groups of say fifty each. But the corresponding margin may be ten per cent., when the group is a colossal and highly organized body of five thousand men. Hence arise enormous differences in efficiency, answering to slight differences in ability. And owing to the competition of rival enterprises for the exceptional manager, entrepreneur profits or managerial salary will come to equal or nearly equal the advantage in efficiency. But this emphasizing of superiorities will appear not alone in the reward of the chiefs, but as well in the rewards of all those who as superintendents, foremen, etc., make up the industrial hierarchy and share with the chief the task of directing.

The competitive system exaggerates differences in inventive and technical ability.

The possibility of reaching a large market insures very great rewards for very small improvements. A device saving five cents on every pair of shoes made in the country would net millions to the patentee. The pettiest notions, the veriest gewgaws and knick-knacks, if sold over the immense markets of to-day, can make somebody rich. We hear of fortunes from mouse-traps, tooth-picks, paper bags, matches, hair pins, blotting pads and collar buttons. Anything new and good, no matter how insignificant, will make the fortune of the introducer. And even if the patent system be regarded as non-competitive in principle, and consequently excluded from consideration, there is still a great reward to be reaped by him who can aid the progress of industry. The introduction of a new process in a rolling mill, the designing of a new pattern for a cotton factory, may, on account of the vast output to which the improvement applies, add to the value of the product many thousands. The extent and responsiveness of the market, then, coupled with the vast size of modern businesses, insure princely rewards to those who, be it by never so little, excel in inventive and technical ability.

The competitive system exaggerates differences in professional or artistic skill.

Industry on a vast scale means gigantic pecuniary interests and litigation on a vast scale. When the stake is so high, an admitted superiority in legal skill, no matter how small, is worth great sums. And with many suitors for the best talent, the more valuable lawyers enjoy the advantage of personal monopoly, and can get paid their full worth.

With the steady differentiation of efficiencies and growing inequality of rewards, there emerges a class commanding great wealth. This class constitutes a narrow but strong market for professional services. The rich, able and eager to get the best oculists, aurists, dentists and other medical specialists, as well as to enjoy the services or products of the best tailors, milliners, architects, artists, actors, musicians, *chefs*, valets, etc., will inevitably differentiate out of



each of these professions a class slightly superior in skill but vastly superior in reward.

The sharp differentiation comes not alone with the competition of goods in larger markets, but also with the wider competition of the various productive factors. Great establishments imply the system of extensive coöperation of the productive factors. Almost every product is the result of the coöperation of a group of complementary goods, embracing land, labor, and capital. Now it is the belief of an eminent economist that it is possible to determine what part of a shoe from a factory is due respectively to land, building, engines, machinery, raw material, and labor, and presumably to each grade of labor from stitchers to superintendent. In imagination he lays out the shoes in heaps, of which this heap is the virtual creation of one coöperating factor, that heap of another factor, and so on. Moreover he holds it capable of proof that the tendency of natural law is to give to each contributing agent that part of the product due to its action.

Both I deny. It seems to me we can not show the product to be the sum of the positive technical contributions of the coöperating agents, and hence it cannot be allotted in proportion to these contributions. As well inquire how much of the speed of the locomotive is due to the skill of the engineer, and how much to the fuel, the draft, the boiler, the water, the steam, the piston, the driving wheel, the smoothness of the track, and the lightness of the load. In other words product  $xy$  is not created half by  $x$  and half by  $y$ . Given  $x$ , and it is the creation of  $y$ ; given  $y$ , and it is the creation of  $x$ . Moreover, even if the joint product of the unlike workings of dissimilar productive factors could be scientifically divided and assigned, there is no guarantee that natural law will do this. Take a simple coöperation. A alone can produce 30. B alone can produce 40: together they can with equal effort produce 90. The sharing of the surplus 20 is not a matter of relative contribution but of economic strength. It goes mainly to the one that can hold off the longer. If A can replace B with another man, while B can find no one to take A's place, A will get most of it. If the positions are reversed, B will get the lion's share.



It is similar in the case of composite coöperation. The value of the joint product is shared between the members of the coöperating group not according to their respective contributions, but according to the degree of replaceableness. The common and readily replaceable factors receive little, while the relatively rarer factors enjoy the advantage of monopoly. From which it results that the common and abundant factors get little direct benefit from the vast and advantageous coöperations that are multiplying in modern production, while the scarcer and exceptional factors get the most of the growing increment in product.

Though I have but skirted the subject, enough has been said to show that the competitive system, taken together with the system of coöperation of productive elements on a grand scale, constantly lengthens the leverage of superiority, and is necessarily the parent of profound inequalities in reward. In primitive societies, apart from war and government, equal diligence enjoyed nearly equal reward. Labor in the last century on the other hand might be compared to a ray of light passed through a glass prism and broken into its components. As these appear on a scale arranged one above another, so homogeneous labor passed through the industrial system of that time, was broken into grades of different efficiencies and rewards. But if we follow out the analogy, the stage of competition we have now reached can best be compared to a diffraction grating, which disperses the components much more than one of glass. In view of its extreme differentiation of all the abiding productive factors, whether natural or personal, we must pronounce the present industrial system the most dispersive that men have ever wrought under. And it would be but a light task to show that every tendency of individualistic competition, so far as it is unhindered by sentiment, law, public opinion, or the power of labor organizations, is in the direction of greater dispersion and steeper inequality.

As the higher dispersion of the diffraction grating came not from depressing the lowest component, but from lifting the upper components, so the inequalities normally resulting from expanding competition come, I think, not from the

impoverishing of the weaker, but from the aggrandizing of the stronger. It is not that the rewards of the inferior are less, but that the rewards of the superior are greater. Every step of the Industrial Revolution above described was made in obedience to the law of adaptation or proximate advantage. With each step came a new surplus to be shared, and hence the means to swell some incomes without cutting down others. Our discovery, then, is not that the many have lost, but that the advantaged few, possessing superior natural opportunities, unusual legal rights or exceptional personal abilities, have been able under the individualistic regime legitimately to attract to themselves most of the benefits of progress, and, if unmolested, can continue to do so in the future.

Our study of actual values is now finished. The objective movement has been traced, and our conclusion, stated broadly and without the due qualifications,—for laws as well as men must be born naked—is that, under the present régime, men's efficiencies, and consequently their rewards, are more unequal than their exertions. Translated into the terms of value theory, this means that *the disproportion between economic rewards and subjective industrial costs is steadily increasing.*

It needs but little reflection to see that this proposition is identical with that reached in the long evolution of value doctrines—viz: that values do not correspond to costs. Our argument is therefore complete. The testimony of objective fact is the same as that drawn from subjective interpretation. The course of economic theory is parallel to the course of actual values, and the common direction of both doubly justifies my conclusion that *the tendency of natural value is toward slighter and ever slighter conformity to the subjective cost of the good or services valued.*

**This closes our economic inquiry.**

But it is well to note what follows, if the law I have formulated is true. It has been for a century supposed that the cause of the great inequalities in men's possessions is political or civil inequality, privilege, oppressive laws, unjust taxation, etc. And so for a century men have labored

to abolish privilege and realize justice. Modern laws grant equal rights: universal suffrage confers equal power: free schools favor equal opportunity. But now that the last vestiges of these ancient wrongs are being swept away, and the grand outlines of the Free and Just State are beginning to appear, Democracy recoils in dismay before the apparition of a great and growing economic inequality, that mocks the labors and reforms of a hundred years. It is true men still hug their illusions. The optimistic faith in "natural law," "natural justice," "natural equality" hides from the masses the real source of the appalling inequalities of wealth. Men continue to rage blindly against government, and charge their ills to bad laws and unfair taxation.

But the time is coming,—nay is now come,—when Democracy will clash with Individualism. It is impossible to avert the catastrophe. When two trains are approaching each other on the same track one must reverse. Whether by violent collision or by slowing up, stand still and recoil—in any case the movement of one or of the other must cease. Either the Democratic Spirit, impatient at the impotence of the shrunken *Laisses-faire* State to realize even proximate equality, will arrest the automatic movement of values and interfere with the natural distribution of wealth, or the Plutocratic Spirit, spurning the hollow democratic dogma of the natural equality of men, will arrest the levelling process and destroy the equal distribution of political power.

The System of Inequality is repugnant to the prevailing ethical sense as well as to the democratic spirit. Deep in the popular consciousness lies the conviction that in the stupendous coöperations of modern industry the associates should be rewarded in proportion to intelligent exertions. The joint product should be apportioned according to pains and positive sacrifices, rather than according to replaceableness. A system that more and more ignores exertions, and exaggerates superiorities and rareties, can not be reconciled with the common standard of justice. It is true that standard admits unequal rewards, answering to unequal faculties. But the obvious individualistic corollary, that each should at all times receive the full benefits and evils of his



own nature and conduct, fails to rally the popular conscience in approval of the rewards apportioned under a system of associated effort and unlimited competition *that enormously lengthens the leverage of certain kinds of superiority in faculty or opportunity.* To avoid violent collision, then, between the economic system and the ethical standard it is necessary either that men's notions of justice be squared with the individualistic conception, or else that values be made to conform more closely to costs.

It is vain to seek an ethical support for the System of Inequality in the biological conclusions of Darwin. The dispersive tendency I have described is not, I take it, the agency that segregates and destroys the unfit. Its effect is rather to segregate and enrich the advantaged few. And for these, although it multiplies their luxuries, it does not appreciably multiply the chances of surviving or propagating. Regarded as a means of improving the race by selection of the fittest, it is practically valueless. The defenders of the System of Inequality would do well, therefore, to rest their case on abstract right and justice, rather than on its serviceableness to the progress of the species.

Finally, it is to be observed that the great Social question, viz: whether or not values shall conform to costs—admits of many answers. The margin that prevents the subsidence of values into uniform proportion to cost is technically known as Differential Gains or Monopoly Profits. As these are of various species, it is possible to eliminate them progressively, or to abolish some, while leaving others. Such agencies as employment bureaus, building and loan associations, savings banks, municipal industries, state railroad commissions, free schools, etc., convert specific classes of Differential Gains or certain kinds of Monopoly Profits into a diffused general surplus. It may be, therefore, that ameliorative measures will slowly and almost imperceptibly retard, and eventually overcome, the ominous movement of natural values I have sought to trace in this paper.

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## THE BERING SEA CONTROVERSY FROM AN ECONOMIC STANDPOINT.

IT would seem to be beyond question that, whatever the scope of the Arbitration, held at Paris, its prime object was the preservation of the fur-seal; and further, it is an axiom, that the seal skin industry, as a commercial enterprise of importance, cannot long exist, unless the skins are secured by methods in which selection, as to the seals to be killed, can be and is exercised.

The seal skin industry of the present day draws for its supply of pelts both upon the fur-seal of the north and of the south. For the practical purposes of trade, and, indeed, in their habits the two are nearly identical, but certain cranial and other physical differences are found sufficiently marked to warrant naturalists in treating them as separate species—that of the north being known as *Callorhinus* and that of the south as *Arctocephalus*. Each group furnishes skins which, though not of equal quality or value, stand high in the fur markets of the world; and, although formerly their contributions reached millions, to-day dealers and consumers are compelled to rely chiefly upon the northern seal; this, too, in the face of the fact that its rookeries occur at only four<sup>1</sup> localities, while those of its southern relative have been found at not less than thirty.<sup>2</sup> An examination of the cause of this decadence of the latter, though leading us somewhat afield,

<sup>1</sup> Seals of the species *Callorhinus* still resort to —

1. The Pribilof Islands.                    }
2. The Commander Islands.               } Bering Sea.
3. Robben Reef, on the west side of Okhotsk Sea.
4. The Kurile Islands, extending from the northern end of the Japan Islands to the southern extremity of Kamchatka

<sup>2</sup> Seals of the species *Arctocephalus* still resort to, and are protected by the Government of Uruguay, on Lobos Islands, at the mouth of the Rio de la Plata and its two little neighbors Castillos and Coronilla. These localities furnish annually to the trade, under the name Lobos skins, between fifteen and twenty thousand pelts. Although a few skins still find their way from some of the

will prove an instructive digression, as it will reveal useful economic facts and offer valuable suggestions concerning the future of the industry.

Civilized man's acquaintance with the fur-seal certainly began with, if not before, the first circumnavigation of the globe, and from then until now this animal has not only

other South Sea resorts to the London market, and together with the Lobos quota swell the annual total contributions from this source to between twenty and twenty-five thousand pelts, the Southern seals have been practically exterminated at the following localities.—

1. San Benito Island.
2. Cerros (or Cedros) Islands.
3. Guadalupe Island.
4. Santa Barbara Islands.
5. Farallone Islands, 32 miles west of San Francisco.
6. Juan Fernandez, 400 miles off the coast of Chile.
7. Massa Fuera, 110 miles west of Juan Fernandez.
8. Coast of Chile and adjacent islands.
9. St. Felix Island, in the Pacific, west of Chile.
10. Galapagos Islands, in the Pacific, west of Ecuador.
11. Falkland Islands.
12. Terra del Fuego.
13. South Shetland Islands, 600 miles south of Cape Horn.
14. South Georgia, in the South Atlantic, 300 miles east of Cape Horn, 55° south latitude.
15. Bouvet Island, east of Cape Horn and nearly south of the Cape of Good Hope.
16. Sandwichland Island, in South Atlantic, southeast of South Georgia Island.
17. Shores and adjacent islands of west coast of South Africa northward to about 28° south latitude.
18. Tristan d'Acunha, south Atlantic, midway between the Cape of Good Hope and Montevideo.
19. Gough's Island, South Atlantic, southeast of Tristan d'Acunha.
20. Kerguelen Land or Desolation Island, southern part of the Indian Ocean midway between Africa and Australia.
21. St. Paul Island.
22. Amsterdam Island.
23. Crozet Islands, west of Kerguelen Land and southeast of Cape of Good Hope.
24. Prince Edward Island, west of Crozet Islands.
25. Southern coast of Victoria, Australia, from Western Port to Wilson's Promontory, and on the Islands in Bass's Strait.
26. Tasmania.
27. St. Ambrose Island, 26° south 80° west.
28. East coast of Patagonia from 42° south, and west coast south of Gulf of Ponas.

} Off the coast of Lower California.

} Indian Ocean, northwest of Kerguelen Land.

borne its part in the commercial affairs of the world but has cut some figure in the diplomatic as well. The earliest navigators of the southern seas found its resorts at many places, and in the chronicles of their voyages occur frequent descriptions, in quaint, old-fashioned language, of the creatures themselves, their habits, and the enormous numbers of them that made their homes alike on continental shores and upon isolated rocky islands remote from the mainland. These navigators and explorers found their breeding-places widely distributed from the equator southward. A reference to the list in the foot note will indicate how wide this distribution was, and indeed, there is but one ocean, the North Atlantic, which did not furnish them a congenial abiding-place.

The value of the seal as a fur-producer seems not to have been recognized, or at least it was not utilized, until long after many of its resorts had been located. Some interest in capturing them was manifested as early as 1690, but extensive operations did not begin until towards the close of the last century. These operations were, to a certain extent, influenced by the discoveries of the Russian explorers in Bering Sea, and the commercial enterprises resulting therefrom. The product of the far north is furs. No one so well understood this as the Russians. In this region where agricultural, or indeed any other pursuits were rare, the one crop to be gathered was the skins of fur-bearing animals. While this fur-harvest of the south remained ungarnered, in the north it formed part of the prize that not only stimulated personal endeavor, but to secure which even the powerful influence of the Russian rulers was exerted. China and Russia were the chief fur-consuming nations, and the latter, from her great market at Kiachta on the Amoor, sought to control the trade with the former in these commodities. From this it will be seen how important was the relation which the discoveries of Bering and Pribilof—the former in 1741, the latter in 1786-'87—bore to this question of the traffic in seal skins. The Commander and Pribilof groups in Bering Sea, found by them, are the two greatest resorts of the fur-seal of the north, the other two localities,—Robben Reef and the Kurile Islands, outside of Bering Sea—yielding but few skins in comparison.

The products of these islands gave to the Russians another article of trade. But other nations, guided by their example and relying upon the southern resorts, were not slow in seeking to avail themselves of the benefits of this trade. But so ardent was this desire, so reckless and destructive were the methods employed in procuring the skins, that the career of their industry was short-lived. It will be profitable to pause, though but for a moment only, to make a note for future use of the means used to annihilate an animal, the desirability of whose preservation must have been apparent even to its ruthless destroyers. The story cannot be better or more tersely told than in the language of Captain Weddel, who, writing of the slaughter on the South Shetland Islands 70 years ago, says: "Whenever a seal reaches the beach, of whatever denomination, he was immediately killed and his skin taken, and by this means, at the end of the second year, the animals became nearly extinct. . . . Occasionally the work of destruction was more speedily performed when the barge or brig carrying such landing parties came upon a large rookery already well filled out with seals, for then the whole work of the cruise would be accomplished in a few days."

It was such parties who, following in the wake of explorers, and indeed themselves exploring, brought death to the seals and annihilation to the rookeries of the South Seas. They landed on the shores, and with clubs knocked down seals of both sexes indiscriminately, paying no regard to the season of, or opportunity for, reproduction. Was it the taking of these seals upon the land that worked the ruin of the industry? Had this killing been carried on at sea, would that have saved them from commercial extermination? The assertion has been made by men of high standing and familiar with seal life that it was the taking of seals on land and not in the sea that did the damage. The mere statement of this proposition, however, exposes the fallacy that would be inherent in any argument based thereon. Land is the only place where selection can be employed. It was the failure to use selection—the absence of discrimination in the capture that did the fatal mischief. Let that indiscrimination,



that lack of selection be exercised either upon land or at sea, and the result is the same. The former simply assures a speedier extinction of the animal than the latter. The mere transfer of the seat of operation does not rob that agent of of destruction--indiscriminate slaughter--of its final deadly effects.

In brief, then, this seems to have been the course of affairs. First, the early, but for a long time unutilized discovery of fur-seals in the south; next, the locating at a much later date of the fur-seal resorts of the north, which furnished to the Russians additional material for traffic with the Chinese; then, the attempt on the part of the former government to control trade with the latter, acting as a stimulus to the development of seal-taking in the southern seas; and finally, as a result, the carrying on of the business there from about the close of the 18th century to the year 1830, with such vigor that by this latter date every fur-seal resort in the southern seas had been searched out, and the commercial extermination of this pinniped at those localities practically completed. It is now evident why the south sea rookeries, which yielded between 16,000,000 and 17,000,000 pelts, no longer offer contributions to the market, and why the trade is compelled to rely upon the northern resorts which have up to this time only yielded something less than six million skins. The seals of the south thus pass out of the range of our interest, and as an economic factor of importance can be dismissed from consideration, and attention confined entirely to that last hope of the seal-skin industry, the northern seal.

Despite the repeated references to the characteristics and habits of the fur-seal which have lately gone the rounds—and certainly some very startling, not to say remarkable contributions to natural history have been put forth—it will tend to clearness if a brief review is given of the essential points in its life and career.

Numerically speaking, there are two great groups of the northern fur-seal. In a general way, the Alaskan or Pribilof group confines itself to the eastern portion of the North Pacific Ocean, and the other group to the western side of the ocean. Between the members of these two groups there

are no physiologic distinctions which would justify the recognition of two varieties, but there is such a pronounced difference in the fineness, density and other qualities of the fur that there has always been a marked variation in the market prices in favor of the Pribilof skins. In 1888 and 1890 the Alaskan skins brought one hundred per cent. more than the Commander Island skins; and in other years the discrimination ranges from that figure to thirty-three per cent. This points inevitably to the conclusion that there must be a rigid adherence on the part of each to its own particular locality, and that differences in food supply, sea temperatures, and general environment have produced this disparity in quality of pelage. The seals of the western side of the ocean resort to the Kurile Islands, Robben Reef and the Commander Islands, while those of the eastern side make their home upon the Pribilof Islands. Land is absolutely essential to the existence of these animals, and so firmly fixed has this habit of returning to a particular spot become that without these islands the seals would probably perish. There is much truth in the definition that the seal is an amphibious animal, for whose reproduction land is absolutely essential, and which resorts to the sea for its food. As regularly as spring rolls around the seals find their way back to these resorts or "rookeries." On those of the Pribilof Islands, which are typical of them all, they arrive in practically three categories. The old males or "bulls" first make their appearance in late April or early May; they pre-empt or take their stand upon a certain area on the rocky shore and, offering savage and even deadly resistance to all intruders, seek to maintain absolute control over this little spot and to establish thereon their families or "harems." Such a portion of a rookery is known as "breeding grounds." Some idea is given of the vitality and endurance of these creatures when it is stated that from the time the male takes his stand until the disorganization of the rookeries, a period covering about three months, he must abstain from food and water, and sleep with one eye open.

The females begin landing about the last of May or first of June, and in the period between the coming of the males

and females there have arrived the young immature males which furnish the marketable pelts. These young males are not permitted by their elders to come upon the breeding ground, and hence they haul out on areas, at greater or less distances away, known as "hauling grounds." It will thus be seen how easy it is to secure, not only without injuring the producing class, but without even molesting them, a certain number of young male seals. And further, the annual quota of skins can be taken, not only without fear of diminishing the herd at large, but with care its dimensions can be increased to any limits permitted by the ravages of the natural enemies of the seal. As a matter of fact, when the Russians first discovered the breeding resorts of the northern fur-seal, they, being unfamiliar with its habits, killed both males and females as was done in the south seas, with the result that on several occasions this northern species was so seriously threatened with commercial extinction that the Russians, becoming alarmed, rigidly abstained from taking other than a very small number of seals for a term of years. In about the year 1845 it dawned upon those in control of the seal resorts in Bering Sea that, if they would manage these creatures as any intelligent stock-raiser does his herds and flocks, it would materially change the condition of affairs. This was done, with the result that, soon after the extermination of the seals in the southern waters was about completed, the northern seals began slowly refilling their depleted ranks. This rigid system of preserving the breeding areas from molestation and taking only the surplus males was thereafter always maintained by Russia. So that the rookeries were turned over to the United States in 1867 in a condition approximating that which obtained when they were first discovered. This course has been continued by Russia in regard to the western side of the ocean and by the United States on the eastern side, the latter indeed even improving upon the methods inaugurated by the former.

By the middle of July the compact, orderly arrangement of the breeding grounds, which has been maintained largely by the vigilance of the old males, is broken up and disorganization prevails. All the incidents connected with the pro-



creation of the species are completed. Seals of all ages and of both sexes wander about at will, being no longer restrained by fear of the old keepers of the harems. The pups, which have wandered to the shores, are learning to swim. The females, which first entered the water some two weeks after the birth of their pups, are coming and going at pleasure. By the latter part of July all the skins to be taken have been secured. After this the males are not even disturbed upon the hauling grounds, and indeed the only disturbance to which the seals have been subjected has been such few weeks of driving from the hauling grounds as has been necessary to secure the annual quota of skins.

In one very important respect the seals of the north differ from those of the south, and it is this difference which makes them vulnerable to attack. Unlike their southern relative, they have a regular migration route, which is made necessary by the rigors of the northern climate and by the requirements of a winter food supply. As the winter approaches, therefore, the seals begin to leave their homes and to take up a nomadic career of some six months duration in the water. In October or November they begin gradually slipping away, but if the weather is favorable, some will be found about and on the islands even until January or February. The Alaskan seals make their way southward through the passes of the Aleutian Chain, and spreading out over the North Pacific, work their way steadily towards the North American coast, reaching there in December or January. Here they follow the abundant schools of fishes northward along the coasts of the United States and British Columbia and the Alaskan shores, ever on the move, until in late April or early May the advance guard of old males will again make their appearance on the Pribilof Islands, life on the rookeries with its varied phases is once more taken up, and thus is completed one of the most remarkable animal migrations in the world. A similar round is gone through with by the group on the western side of the ocean, the only difference being in locality. Here the seals move in a south-westerly direction in their search for food and more congenial temperatures.



We have then, as the prime factor, a polygamous, uniparous, self-supporting animal, which, by reason of its peculiar nature, is so easily managed that the industry based on the taking and manipulating of the pelts can be prosecuted indefinitely without impairment of the original stock, provided the taking of skins is confined to a selection made from the surplus young males. Now that the existence of this animal and the industry based thereon is threatened, and grave international contention has arisen concerning it, the question as to whether from an economic standpoint it is worthy of preservation is a pertinent one. We have seen the part it has played commercially heretofore, but is its career in the future likely to be sufficiently great to justify steps looking to its perpetuation? The sharpness and vigor of the international contention referred to would seem to suggest quite pointedly that there is something worth contending for. It has been urged that the dispute relates to an article of luxury that the world can do without. True, and the buyer of the article can dispense with this luxury or purchase even a more expensive one, but the laboring world cannot afford to dispense with the wages earned in the many steps required to procure that pelt and to fashion it into that article of luxury. Arguments directed against an object on the ground that it is a luxury are usually inherently and fundamentally unsound. Discard from daily use all those articles which are luxurious, and hence non-essential, in character, and what is there left? Only primitive man engaged in such simple pursuits as will procure a daily supply of food and sufficient protection in the way of clothing and shelter from the inclemencies of the weather. Manufacture, trade and commerce cease to exist; every object pleasing to the æsthetic sense is eliminated and there disappears man's greatest incentive to exertion and promoter of advancement. The fact that the ultimate product of an industry is an article of luxury is an argument in its favor, for the profit made out of it is paid by the rich, while every step in its preparation gives employment to the poor.

Granting that the argument from the standpoint of luxury is untenable, is the industry one of sufficient magnitude to

entitle it to the consideration of having a strong effort put forth for its preservation? It can justly be claimed that it is, and at the very outset in support of this claim, attention should be called to the fact that the Pribilof Islands alone, during the first twenty years of American ownership, yielded to the United States, in revenue, a sum larger than the \$7,200,000 originally paid for the entire territory of Alaska. Should the industry be preserved, and the "rookeries" restored to their former condition, the annual income to the Government can be increased, and corresponding advantage accrue to the world at large. Since their first discovery these rookeries of the north have yielded between five and six million skins. For the twenty years ending and including 1889 there were furnished to the trade from all sources, exclusive of pelagic sealing, an average of nearly 150,000 skins annually, two-thirds of which came from the Pribilofs. These were sold as raw pelts for the average annual sum of about \$2,500,000. Since 1889 the price of skins has materially advanced. In the case of the Alaskas or Pribilof skins, which are the finest now in the market, the raw pelts sell for \$30 each, while in the case of the others there has been an advance of from 20 to 40 per cent. on the prices of 1889. Not less than forty buyers are engaged in purchasing these skins, while about two thousand skilled laborers are employed in converting them into fabrics suitable for the uses of the furriers. What values these skins represent, either when so treated or when converted into the garments of the prevailing mode, it is impossible definitely to say, but the figures would easily reach millions. It must be borne in mind also that the services of a small army of persons are required other than the trained manipulators of the skins. They must be gathered on the far-away isles in Bering and Okhotsk Seas, and at the few remaining seal resorts in the South Seas, and at the mouth of the Rio de la Plata. They form part of the business of the vessels and the railroad lines which transport them. Coopers must make casks for their shipment; they must pass through the hands of many laborers before they reach their final destination, while stores must be maintained, and clerks employed,

in order that they may at last find their way to the consumer. It will readily be seen that all this involves hundreds of thousands of dollars. Surely this is an industry worth preserving. But the most important feature of all is that, if some way can be devised by means of which protection is given the seals in the water, and the killing confined to a judicious selection on land of those to be killed, then many of those prostrate "rookeries" of the South Seas that yielded sixteen or seventeen millions of skins before exhaustion set in, can be again gradually restored and the industry, as a whole, greatly expanded in consequence. This brings us to the consideration of the future of the industry. That future will be largely influenced by the fate of the fur-seal on the Pribilof Islands, for the world looks to it as a test case. As to the desirability of bringing about a condition of affairs such as that suggested above, there can be no doubt. But how is it to be accomplished?

Before proceeding to the consideration of that inquiry we must first dispose of the question: Is the existence of the remaining herds really threatened? We are dealing with a creature the period of gestation of which is between eleven or twelve months; which gives birth to but a single offspring annually; and which is compelled by its environment, as has already been noted, to pursue for six months in the year a well-defined migration route. This latter fact makes it possible for man to follow steadily upon the track of the seals, during at least eight months of each year, and by employing small boats and canoes, experienced white hunters with shot-guns, and expert natives with spears, to capture them on every favorable occasion offered by the weather, not only along the shores of the United States, British Columbia and Alaska, but in Bering Sea as well. In the North Pacific the females are heavy with young; in the Bering Sea they are nursing mothers. In the former two seals perish for every mother killed, while in the latter the loss is three for every mother taken. The very lowest estimate that can be given of female skins in the catch is over 50 per cent., while the testimony of experts such as London fur-dealers, pelagic sealers, and



men who have carefully examined skins for the special purpose of determining the proportion of females to males, assert that 75 to 80 per cent. of the former are found in the catches. In addition to this, a certain proportion, not less than ten per cent. of those shot, are lost by sinking, or, being mortally wounded, escape their pursuers only to die later on. No hunter, be he a whiteman or a native, is sufficiently expert to be able to distinguish the sexes in the water. Can it be maintained for a moment, therefore, that there is any difference, so far as exercising selection is concerned, between the assault on the seal-herds now going on in the North Pacific and Bering Sea and that which destroyed the magnificent "rookeries" of the southern fur-seal? Can any one of sound mind suppose, for an instant, that the seal-herds can or will long survive this indiscriminating attack of the pelagic sealer? Owing to the depletion of the seals, only about 22,000 could be killed on the Probilof Islands in 1890, and by reason of this scarcity and the operation of the *modus vivendi*, only about 42,000 skins were taken there during the three years ending with and including the season of 1892. Previously, as has been mentioned, these rookeries had yielded 100,000 skins annually for twenty years. During that same period of three years the pelagic sealers marketed in London not less than 150,000 pelts, which represents only about one-half the injury sustained by the seal-herds—an injury directed chiefly against the producing class—the females. The potency of this attack is simply and graphically shown, when it is stated that in 1878 there was one sealing schooner, and in 1892 there were 122. This destruction of the seals has been, and still is, going on with unabated zeal, side by side with the attempt to find grounds for, and methods of, protecting them. As to the imperative necessity of protection, there can be no difference of opinion, as the creation of the Tribunal of Arbitration indicates. The consideration of the means of accomplishing this protection opens wide the door of legal discussion. While a review of the merits of that discussion would not be relevant in such an article as this, inquiry can properly be made as to what relief the industry is likely to receive from this source.



Is it probable that the field of operation of the pelagic sealer will be curtailed by withdrawing, under the doctrine of *mare clausum*, Bering Sea from the waters in which seals are captured? By no means, the opponents of restrictive measures reply, for it was a doctrine only asserted by Russia on paper—never actually exercised, and finally, under pressure from the United States and Great Britain, was withdrawn. More than that, Mr. Blaine, in 1889, distinctly disavowed its maintenance on the part of the United States. And no matter if Russia, aside from the question of sovereignty over the waters of Bering Sea, did strenuously seek to exercise protection over her colonial fur-interests, to guard them from all intruders and to reserve exclusively for her own use and benefit this sole product of those northern regions, the United States must be debarred from continuing any such policy so far as those "free swimming" creatures, the seals, are concerned.

But surely the United States has certain property rights in the seals—in the individual seal, in the seals as a herd, and in the industry resulting therefrom, and which has been established for more than a century? Are we not dealing with a creature whose very perpetuation depends upon its resorting to these islands—a creature in which the *animus revertendi* has long been a fixed law of its nature? Did not the Russians avail themselves of this habit to establish a business enterprise, all right and title to which the United States acquired through the purchase of Alaska? And shall we not be permitted to stop any pursuit which jeopardizes that enterprise? Certainly not, says the opponent of the doctrine of property rights. These are wild animals, and while it is true that they possess this *animus revertendi* which has been utilized to found an industry, you have in nowise contributed to, or done anything looking towards, the fostering of this habit, as is done in the case of bees and other creatures. On the contrary, any attempt on your part to do so would result in frightening and driving them away. All you have done is to refrain from destroying them, as was done in the South Seas. It is true, you have exercised forbearance, you have kept away intruders, you have made

stringent regulations protecting them from molestation, and you have permitted no females to be killed, thus promoting their increase, but this is all negative, and you cannot therefore have any property right in them at all. You have only the same right to kill or shoot them that any other person has, and, by reason of your ownership of the islands, you have an exceptional advantage over the rest of the world for doing so, and nothing more. The seal can only be reduced to possession by killing it. The fact that the seal is born upon the land, remains helpless there for months, and that it can be handled and branded with a distinctive mark, gives you no ownership after it has left the islands; nor have you any redress, if your industry is injured by the mothers being killed at sea and their pups perishing upon the breeding grounds for lack of nourishment. There is no municipal or international law which accords to the United States proprietorship in any of the directions indicated. In considering this question of law it must be borne in mind what "international" means. Nothing can be considered international as to which it cannot be affirmatively shown that the consent of civilized nations has been given. Nor can the Tribunal of Arbitration help you in an international way, for we hold that its duty is merely to declare law, not to make it; its function is determinative, not legislative. We insist, continues the anti-property advocate, that it must consent to be held rigidly down to the interpretation of existing law, and not employ itself in formulating new principles suited to this exceptional case. Therefore, you must not expect relief at its hands from the standpoint of law of any kind. More than that, the present attitude of the United States is entirely new. It is true, Congress passed a law calling it a criminal offense to kill seals within the territorial waters of Alaska, and under executive orders based thereon, certain seizures were made in Bering Sea, which, being oft repeated, brought matters to a focus, but we claim that the United States has never enacted statutes defining her property right in the seals, and called the attention of the world to them by captures upon "high seas" not in dispute. If she suffers now for her previous forbearance, it is her own fault, and she

has no right to demand more of the arbitration than she herself exacted.

But is there no force in the doctrine of *contra bonos mores*? None whatever, says the strict constructionist. Adopt such views, and you cut yourself loose at once from all moorings. It plunges you into a vortex of abstract theories and vague speculations which, no matter how interesting and instructive they may be from the standpoint of theory and metaphysics, must not be mistaken for law, and must not be allowed to have any force in the consideration of these questions. Why, if it is once admitted that this is a peculiar court, that it need not rely upon existing law, that it is bound by no question of precedent,—for such a case has never come up before,—hopeless confusion will ensue; and if, on the theory of good morals and right conduct as well as on the ground of advantage to mankind, it is conceded that there should be assigned to the nation having control of the areas upon which this animal breeds, the duty of gathering the increase in such a way as shall not impair, but on the contrary tend to increase, the parent stock, and of distributing it for the use and benefit of the world at large, frightful consequences are likely to follow. It would be a step subversive of the freedom of the seas; it would carry with it the right of search, and interfere with certain other time-immemorial privileges upon the sea which, from some peculiar, inexplicable cause, has to be allowed a greater degree of freedom than if it was mere land. No! no! continues the champion of conservatism, let the seal-herd perish, rather than infringe upon that priceless boon, the freedom of the seas. Beware of taking a broad and comprehensive view of the situation. To make a precedent in the matter of property rights, no matter what good effects might result therefrom, would be a dangerous experiment, and, indeed, unjustifiable, under the terms of the treaty creating the Tribunal. It may be that it would be a direct, common-sense method of procedure, accomplishing at once the object sought, but this question of the preservation of the fur-seal can be safely approached only from the standpoint of regulations,—regulations which will preserve the seals and at the same time



provide for the business of pelagic sealing. The Treaty does not say anything about preserving this latter pursuit, but it is quite evident it meant to do so. It is the oldest method of taking seal, known to man, having been employed by the aborigines upon the coasts long before their discovery. The whites took their cue from, and improved upon the methods of the natives, and thus the enterprise has been greatly developed in recent years. The only substantial objection to it is that it involves the killing of females and the destruction of the herd, but this destructive effect has been greatly exaggerated, and the real cause of depletion is mismanagement on the Pribilof Islands, where the seals are taken on land. Nothing needs to be done, therefore, except in the direction of harmonizing the two methods of taking the seals.

This all means that the seals' future depends upon the point of view which the Arbitration may be induced to take by this legal warfare. What that point of view will be, only the eye of prophecy can foresee. The probabilities in the case, however, are confined to narrow limits. If broad and liberal conclusions on the matter of property rights are adopted, and stamped with the approval of the Tribunal, the freedom of the seas for proper acts would be no more affected than it is by the prohibition of piracy and the slave trade, while not only would the fur-seal, and the industry based thereon, be saved, but, under the benign operation of that wholesome far-reaching principle of a property right, many of the "rookeries" of the southern seas could in time be restored. This would be a result which, while cutting off pelagic sealing,—an enterprise self-destructive and short-lived at best—would inure to the benefit of all mankind,—a benefit which can only be secured by lodging in responsible nations a custodianship over this valuable animal. If the situation is regarded from the standpoint of regulations only, and such are framed as will eliminate pelagic sealing, the northern herds will be guarded, and possibly something may still be done in the south seas. If the Tribunal, however, consents to a limiting of its high powers, and deems the rendering of a decision looking solely to the adjustment of a



conflict between two methods of taking seals a full discharge of the duties entrusted to it, it will to that extent have failed in realizing the object of its creation. It will not have developed measures for the preservation of the fur-seals; their capture, though possibly curtailed, will be continued by methods in which no selection can be exercised, and, in accordance with the axiom first laid down, the decline of the seal skin industry will steadily continue—the rapidity of that decline being controlled by the extent to which the killing of seals at sea is permitted.

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Washington, D. C.

## BOOK NOTICES.

*Division and Reunion 1829-1889.* By Woodrow Wilson, Ph.D., LL.D., Professor of Jurisprudence in Princeton University. New York and London, Longmans, Green & Co. 1893. 12mo, 326 pp.

Professor Wilson has selected (not to say, invented) a new period of American history for commemoration in this little volume, the latest of the "Epochs of American History" series. It is the last sixty years of the first century under our present Constitution. The book is far from being a mere narrative. The author believes that the period chosen has a distinct life and character of its own, which it is his main object to describe and illustrate.

Briefly summarized, his positions are these :

Of those who had been leaders in the Revolutionary and post-Revolutionary period, none were alive in 1829. The old political issues had died, also, in the "era of good feeling." It was a new kind of Democracy which came in with Andrew Jackson and went out with the first administration of President Cleveland. It began as a party of native-born Americans, for between 1790 and 1830 not more than four hundred thousand immigrants were added to our population. It included within its ranks, in 1889, a very large percentage of men of foreign birth or foreign parentage.

The native-born American, however, of 1829 was not entitled to look down on foreigners. Our grandfathers were "a race of homespun provincials." "The whole people, moreover, were self-absorbed, their entire energies consumed in the dull, prosaic tasks imposed upon them by their incomplete civilization." (p. 6). It was not till Europe had repossessed itself of the continent by a tide of emigration, which created and nationalized what was originally known as "the West," that men came to see what a State could be, which had no history. The States of the former era were self-centered provinces. The new States had "no corporate individuality." The West "was the region into which the whole national force had been projected, stretched out and energized,—a region, not a section divided into States by reason of a form of government, but homogeneous, and proceed-

ing forth from the Union." (p. 212). The South alone stood wholly apart from these influences, and she was at last borne down by them.

Jefferson's democracy had been that which aimed at little but confining the powers of government within their narrowest limits, but it was the "Jacksonian dogma that anything the people willed was right; that there could not be too much omnipotence, if only it were the omnipotence of the mass, the right of majorities." (p. 21).

The "Spoils system" was introduced by Jackson's friends, rather than by Jackson. He admired, in an indiscriminating way, the results of party discipline and organization in New York, and suffered Van Buren and Marcy to bring their methods to Washington.

The East and West began to draw off from each other in 1830. The East looked with apprehension at the tide of emigration which was draining it of its best blood to give life to new and rival communities. Webster, not in sympathy with this spirit of jealousy, in the debates on the Foot resolution as to the Public Lands, first outlined the national theory of our government. The South refused to accept it, and in so refusing, "was continuing to insist upon the original understanding of the Constitution: that was all." (p. 47). The fight of South Carolina against the Protective system was a practical success. The tariff was modified much as she wished, and though her theory of government was not established in form, the result of nullification "gave to the practical politics of an English people, a theoretical cast such as the politics of no English community had ever worn before." (p. 67)

Jackson's war on the Bank marked his instinctive appreciation of the approach of a new era when corporations would be the masters of every business, and "individual opportunity was to become unequal." A leisured class arose, and literature came with them, led by Hawthorne, Poe, Longfellow and Emerson. The change of Northern sentiment as to slavery tended inevitably to war, or secession; and the right of secession, though it "would hardly have been questioned in the early years of the government" (p. 211), came to be opposed and overborne by a nationalizing tendency of thirty years growth. The South was driven to submission, or to arms. The conflict came, and "there is, in history, no devotion not religious, no constancy not meant for

success, that can furnish a parallel to the devotion and constancy of the South in this extraordinary war." (p. 239).

The war over, morals declined. "During the whole of General Grant's second term of office a profound demoralization prevailed the administration" (p. 278), and infected Congress. Political changes followed, and the Democratic party finally returned to power, led by a new order of men. As the century closed, a new Union was born, and the South came for the first time into likeness to the rest of the country.

The impression which reading Professor Wilson's book leaves upon the mind is that he has hardly vindicated the right of the sixty years under review to be treated as a distinct part of American history. The contrast between the American of 1829 and the American of 1889 is hardly as sharp as he would have us believe. The new States of the last thirty years are, after all, in great measure, repeating the history of the new States settled by the preceding generation. There was no real "division" in 1829, nor was "reunion" delayed till 1889.

Professor Wilson writes in a clear and forcible style, though marred by an occasional colloquialism, which seems to have more in common with what he deems the literary finish of 1829, than with that of 1889. The bibliographical references at the head of each chapter are both well selected and well arranged, and add greatly to the value of the work, which appears to be especially designed for use in instruction in Colleges or high schools.

SIMEON E. BALDWIN.

*Dissertations on the Apostolic Age.* Reprinted from editions of St. Paul's Epistles by the late J. B. Lightfoot, D.D., D.C.L., LL.D., Lord Bishop of Durham. London and New York, Macmillan & Co. 1892—8vo., ix, 434 pp.

Bishop Lightfoot was justly considered as the foremost scholar in matters pertaining to New Testament Criticism in Great Britain. His mind was penetrating, his acquaintance with the early ecclesiastical literature was thorough and accurate, his spirit fair and judicial, and he had no hesitation about avowing his opinions. The Dissertations reprinted in this volume are five in number. Every one of them is a gem of its kind. Many will turn with interest to the third, that on "The Christian Ministry," which was connected with the Bishop's *Commentary on the Philippians*. In that Essay, Dr. Lightfoot maintained with great



ability and erudition that the Episcopate in the Church was developed out of the presbytery, and that the sacerdotal theory of the ministry did not exist in the Church of the second century, the Episcopate being considered an institution for purposes of order and government. He held, however, that in all probability it existed in Asia Minor before the death of the Apostle John. The Notes appended by the Editors of the present volume are from other writings of a later date from the Bishop's pen. They show his attachment to the Episcopate, but do not modify the positions of the Essay. In fact he wishes to be understood as "disclaiming any change in his [my] opinions" (p. 243). He goes no farther than to say: "the threefold ministry can be traced to Apostolic direction; and short of an express statement one can possess no better assurance of a Divine appointment or at least a Divine sanction. If the facts do not allow us to unchurch other Christian communities differently organized, they may at least justify our jealous adhesion to a polity derived from this source" (p. 242). In the Bishop's (posthumous) edition of the Apostolic Fathers he remarks that Episcopacy had not spread into the region where the recently discovered "Didache," or "Teaching of the Twelve Apostles" belonged.

G. P. F.

*The Repudiation of State Debts.* Library of Economics and Politics, No. 2. By William A. Scott, Ph.D., Assistant Professor of Political Economy in the University of Wisconsin. New York and Boston, Thomas Y. Crowell & Co., 1893—8vo, 325 pp.

In this work Professor Scott has endeavored to give an historical and critical review of repudiation as it has been practised by the States of the Union from 1789 until the present time, including the "scaling" of State debts and the refusal on the part of certain states to pay bonds which were held to be invalid, either from a moral or legal standpoint.

The extension of the term "repudiation" beyond its narrow and technical limits seems necessary to a full treatment of the subject, but there is a tendency on the part of the author to confuse the several classes of bad debts above referred to and the degree of accountability of the states for them. The instances of public bankruptcy before 1789 are not considered. The first part of the book deals with the constitutional and legal aspects of repudiation, and first with the provisions of the Federal Constitution which bear upon the subject, viz: the prohibition of the

impairment by the states of the obligation of contracts [Art. I, §10] and the provision that the judicial power of the United States shall extend to suits between a State and citizens of another State (Art. III, §2). The meaning of the former class is shown by a brief review of important decisions thereon by the Supreme Court, to forbid not only the impairment of the contract itself, but also any interference with the legal remedy of such a character as to destroy or weaken its binding force upon the parties. In *Bronson v. Kinzie*, 6 How 301, it was laid down that a diminution in the value of a contract, caused by legislation, is an impairment of the obligation, but in certain cases the ingenuity of local legislators has succeeded in imposing harassing restrictions upon the debtor's pursuit of the remedy, which have nevertheless successfully run the gauntlet of the Supreme Court and been held valid. Such was the character of the Virginia act of May 12, 1887, adjudicated in the case of *McGahey v. Virginia*, 135 U. S. 667. The protection afforded to creditors of States by the Federal Constitution would nevertheless have been ample had the decision in *Chisholm v. Georgia*, 2 Dallas 419, that a State could be sued in a Federal court by the citizen of another State, been allowed to stand, but the adoption of the eleventh amendment corrected what was at that time all but universally regarded as an abuse of the judicial power. The result of the provision of the Federal Constitution is that the creditor of a State cannot appear in the Federal courts as plaintiff to sue upon his debt, and although he can appear as plaintiff against State officers attempting to enforce an unconstitutional law, and as defendant when the state initiates some proceeding to deprive him of his rights under the contract, even this protection may be made worthless by indirect hostile legislation. Thus defenseless in the federal courts, the creditor will appeal in vain to those of the States for an adequate or effective remedy. Only seven States, Indiana, Mississippi, Wisconsin, Nebraska, Nevada, North Carolina, and Michigan provide for the adjudication of claims against them, but the decisions thereon are merely recommendatory and not enforceable by execution. The author's general conclusion is that the States are practically free to pay their debts or repudiate them as they see fit.

The second part of the work, chapters 2-6, deals with the history of repudiation, beginning with Mississippi in 1847, and ending with Virginia in 1892. The list of repudiating States is as

follows: Mississippi, Florida, Alabama, North Carolina, South Carolina, Georgia, Louisiana, Arkansas, Tennessee, Minnesota, Michigan, Virginia; the amount of dishonored obligations is not satisfactorily computed but would appear from Appendix II, C, to be upwards of \$150,000,000. The historical part of the book is unsatisfactory in its method and scope. Different groups of States are treated in different chapters, but this classification seems to be based on no clear principle of chronology, geography, history or finance. An obvious and useful classification would be (1) Repudiation by States whose debts were contracted wholly by way of commercial and industrial speculation, (2) Repudiation by the Southern States of debts contracted under the carpet-bag régime. A subsidiary classification based upon the validity or invalidity of the debts would also be useful. These are indeed employed in the third part of the work, chapter 7, wherein the causes of repudiation are set forth. As to illegality in their issue, bonds are of three classes; those which were unauthorized by any law, those which were authorized (?) by unconstitutional enactments, and those which do not strictly comply with laws authorizing their issue. Refusal to pay bonds of the first two classes is justifiable and even necessary, both on legal and moral grounds, and in respect to the third class the author adopts the usual opinion that such bonds are valid if they purport on their face to be issued in strict compliance with law. A more accurate statement would be that such obligations are valid in the hands of purchasers in good faith for value and without notice, actual or constructive, of the legal defects. Recitals in the bonds will not make them valid if the test of invalidity, provided by the authorizing statute, can be applied by inspection of a public record (*Sutliff v. Lake County*, 147 U. S. 230.) Tested by these rules, some of the cases of "repudiation" historically treated would appear not to be repudiation at all, and it is to be regretted that this distinction has not been clearly made by the author.

The causes of repudiation in this limited sense are the excessive burden on the repudiating States, the corruption of State officials, the financial crisis of 1837, and the Civil War. The first is rather an effect than a cause, the second and fourth, acting in unison in the days of reconstruction, have been the most powerful and are not likely to recur, but official corruption and financial crises we have always with us, and this renders appropriate



the discussion of remedies for repudiation in chapter 8, the fourth part of the work. The tendency of constitutional restrictions upon debt-contracting power has of late made it impossible for most of the States to incur heavy loads of debt, but these restrictions seem to the author unwise, since they make it impossible for the States to undertake desirable public enterprises, such as forest preservation, irrigation, ownership of natural monopolies, and higher education. In their stead he would submit every proposition for contracting debt to a *referendum*. But, after a debt has been contracted, how shall its payment be assured? John Quincy Adams' plan of withdrawing the protection of the Union from repudiating States when invaded by foreign nations in the attempt to enforce payment does not merit discussion; the assumption of repudiated state debts by the nation is scarcely better, although the author thinks it the only possible remedy under our present public law.

The denial of the right of Congressional representation to a repudiating State would be revolutionary and ineffective to enforce payment. The repeal of the eleventh amendment would render the States suable in the Federal courts, but how enforce their decrees without doing violence to the genius of our Constitution? Compulsory taxation would seem of doubtful efficiency, and the levying of execution for public debts upon private property is at least inexpedient. But the burden of a debt might be really too heavy for a State to bear, in which case bankruptcy proceedings would be necessary. In spite of all objections, this remedy is after all the only one of a legal nature which seems adequate.

In view of our recent financial experiences, the last remedy proposed, viz: the education of public opinion morally and economically, so as to make repudiation impossible, seems the most unattainable and impracticable of all. When we consider the great number of plans now afoot for the reckless use of public credit, we may be thankful for the Constitutional barriers which make large bond-issues impossible for most States, at least for the present, bearing in mind that an ounce of prevention is worth a pound of cure. The sources of information, statistical tables, extracts from the charter of the Mississippi Union Bank, from the debt-settlement acts of Virginia and Tennessee, and from the report of the investigating committee on public frauds in South Carolina, are included in appendices. The book is well indexed.

PHILIP PATTERSON WELLS.



*Tools and the Man. Property and Industry under the Christian Law.*  
By Washington Gladden. Boston and New York, Houghton  
Mifflin & Co., 1893.—8vo, vi, 308 pp.

To write a good book on property and industry, something more than an ordinary knowledge of jurisprudence and economics is absolutely essential. It is not enough to have read magazine and encyclopædia articles, or to be familiar with the more popular literature on the subject. It requires a great deal of hard reading and systematic knowledge. In default of such study, a writer may say good things, but he can never do good work. This is precisely the case with Dr. Gladden. His knowledge of economic literature is inadequate, his knowledge of law very slight indeed. It is a pity : for he has some unusual qualifications for work of this kind. He is careful in his statements of fact—unfortunately a very rare merit in books like this. He is a man of great breadth of interest, who looks at his subject from many sides, and does not let any hobbies run away with him. But all these merits will not take the place of specialized knowledge.

The lack is strikingly seen in his treatment of the subject of property ; especially in the chapters on "property in general." Of the distinction between ownership and possession, so fundamental to the whole discussion, the author seems to have no idea whatever. He uses the word property to denote the thing possessed, the fact of possession, or the incidental consequences arising from possession, far oftener than in the legal sense connected with the civil guarantee of title. "The most profound and perfect definition (*sic*) of property," that he has ever seen is this—"Property is communion with God through the material world." Whatever may be the importance of this proposition, it will not serve any of the ordinary purposes of a definition. You cannot be certain what it means, or what it applies to. It is as defective from the standpoint of the logician as from that of the lawyer. The chapter on Property in Land is more concrete, and therefore better ; but the author has failed to make use of the best material which lay at his command. Not to speak of the less accessible authorities, he apparently does not know that Adolf Wagner has treated the subject in masterly fashion in the first volume of his political economy—an oversight all the more remarkable, since he quotes at some length from a fugitive and comparatively unimportant utterance of Wagner on a kindred

matter. He is also unfamiliar with Ashley and makes little use of Thorold Rogers.

"The Collapse of Competition" is the heading of one of his chapters. The title is more effective than truthful. Competition has failed to do some of the things which its most enthusiastic advocates claimed; but it has done, and continues to do more than any alternative system which has yet been devised. The improvements in industrial efficiency have been made under the stimulus of free competition. Take the single case of railroads. They have been quite largely owned by Governments; but where can we find a single important piece of progress in railroad management for which the government can claim credit?

Track and locomotive in times past, block signals and automatic brakes in times nearer at hand, have all come from competition, and none from socialism. A system which has secured the maximum efficiency cannot be said to have collapsed, even though it has failed to achieve some results quite as quickly or fully as its champions hope. Dr Gladden believes that the managers of our largest industrial enterprises have put themselves beyond the control of competition, by their accumulations of capital. This is a superficial view. The control in such cases is less direct than in the case of smaller concerns; for with the latter, unfair prices mean immediate loss, while with the former they may be maintained for a considerable period. But an examination of the history of monopolies shows that the reaction is only deferred, not destroyed. The mediæval legislator thought that trade involved cheating, because each man would try to abuse the ignorance or need of his customers and get unfair prices. Adam Smith showed that, if such a man looked a few weeks ahead, the possibility of competition would protect the consumer. With business as it is now organized, the seller must have the sense to look a few years ahead, instead of a few weeks. The apparent success of competition in the former case, and its apparent failure in the latter, arise from the fact that we are educated up to its application in the one case, and not in the other. A failure to recognize this fact, and others like it, stands in the way both of moral and economic progress.

A. T. H.

*Musterstätten Personlicher Fürsorge von Arbeitgebern für ihre Geschäftsangehörigen. Band I, Die Kinder und Jugendlichen Arbeiter.* Von Dr. Jul. Post, Professor an der Technischen Hochschule in Hannover. Berlin, Robert Oppenheim, 1889.—8vo, ix, 380 pp.  
*Band II. Die Erwachsenen Arbeiter.* Von Dr. Jul. Post und Dr. H. Albrecht, 1893.—8vo, vii, 745 pp.

It is quite pleasant to turn from the picture of European pauper labor, which has been sketched for us so frequently during the past campaign, to the pages of this book. As we look them over, we get glimpses of children digging joyfully in gardens, of well built factories, of comfortable looking homes with neat cot beds, of splendid bathing arrangements, of busy industrial schools with children cheerfully at work in them. Occasionally a well equipped gymnasium meets our eye, or a dining room with dainty tables, or a trim sanitarium, surrounded by gardens, or a neat concert hall waiting for its audience. In brief, the authors of these two imposing volumes have attempted to bring together all that has been done, not only in Germany, but also in other countries, by owners of large industrial establishments, towards providing for the comfort, recreation, and general wellbeing of their employees.

The first volume treats of the arrangements for the care of children and young people, such as kindergartens, schools, homes, etc. The second treats of adults, and describes the arrangements made with regard to wages, profit sharing, lodgings, savings-banks, mutual insurance, recreation, etc.

The introduction is appropriately headed "Patriarchal Relations in Industry." It is of benefits conferred, therefore, in a philanthropic spirit by the owners, rather than of any system of self-help that the book treats.

The subjects dealt with are treated in very great detail. Buildings described are not only often represented by plans and elevations, but the by-laws and rules of many institutions are given in extenso. In one case the catalogue of a library is even printed verbatim, together with figures showing the popularity of the various books. The mass of material thus brought together is, therefore, very great, and very valuable for anyone who is making a special study of any of the details of the subject. It is to be regretted that the authors have done little in the way of generalizing the results of their inquiries. Perhaps the moral of the book may be summed up in the words quoted from J. C. Van Marken, who, in describing the very elaborate

arrangements which he had introduced in his alcohol distillery in Delft, says: "I began to create those institutions at a period when our enterprise was not rejoicing in the brilliant success which it has acquired to-day, and indeed, on the contrary, when we were still waiting for profits. These institutions were not the result of our prosperity, but, on the contrary, they have contributed much towards our success." (p. 3).

Nevertheless, it seems from a good many instances quoted that what has been done for the workingmen has not, in all cases, been appreciated, and where the success has been great, it may, perhaps, have been due very largely to the personality of the manager. We must rejoice, however, in any steps which have been taken towards lessening the friction between employer and employed, and it is certainly encouraging to find from this book how much has already been attempted.

H. W. F.

*Prisoners and Paupers.* By Henry M. Boies, M.A. New York, G. P. Putnam's Sons, 1893—8vo, xiii, 318 pp.

This is a better book than one might suppose from a casual glance at the illustrations. It does not promote faith in the scientific character of a work to find pictures of the Vatican Sophocles, of the Venus of Milo, and of leading American statesmen mixed in with groups of convicts and recently landed immigrants, as object lessons in penology and pauperism. Yet the picture which the author gives of the growth of criminality in our country, of the growth of pauperism, and of the general spirit of recklessness and extravagance which characterizes this branch of our administration, is a good one.

The main idea of the book, namely the sterilization of the unfit, is also, in our judgment, excellent, and can not be too often insisted upon. It is refreshing to find a man, practically engaged in prison work, who is willing to advocate a surgical operation in the case of prisoners, as a means of preventing the further increase of the criminal classes (p. 270).

In dealing with the causes of crime, the author seems occasionally to forget the old maxim "*Causæ non multiplicantur sine necessitate.*" Thus, in reading the chapter on alcohol, one gets the impression that all crime is due to intemperance. The chapter on heredity, however, would lead one to think that it is all due to inheritance.



This lack of balance in the different chapters may be due to the fact that the book originated in a series of papers written for a newspaper. In other instances, however, the author is occasionally carried away by his feelings into exaggerated statements. "All drunkards are liars" (p. 138); "Sociologically, the life of the bachelor is of necessity a failure, if not a crime" (p. 108); are examples of this peculiarity.

The author is also inclined to give general estimates as if they were statistics based upon careful investigation, as where he says "Alcoholic drink is estimated to be the direct or indirect cause of seventy-five per cent. of all the crimes committed and of at least fifty per cent. of all the suffering endured on account of poverty in this country, and among civilized nations." (p. 137).

Plenty of blemishes of this kind might be pointed out, if it were necessary, but the book is evidently intended to be a popular, rather than a scientific, presentation of the subject, and as such we believe it to be a useful contribution to literature.

H. W. F.

*Socialism and the American Spirit.* By Nicholas Paine Gilman. Boston, Houghton, Mifflin & Co., 1893—8vo, x, 376 pp.

This is much the best thing which the author has written. It treats an old theme in a thoroughly original way. The author analyzes Socialism not as a body of doctrines but as a type of character. He is not so much concerned with tracing its economic results as its psychological conditions. After showing what sort of characteristics produce Socialism, he next considers what are the characteristics of the American citizen which have made our country what it is; and he has no difficulty in showing the inherent opposition between the two types. Some might take exception to parts of his analysis of the American Spirit, and say that he ignored or glossed over some dangerous tendencies in the United States of to-day; but all must welcome the kind of treatment which he has applied to the subject as a whole.

In one of the most interesting chapters of John Stuart Mill's *Logic*, attention is called to the need of a Science of "Ethology," treating of the formation of character among groups of men. Mr. Gilman may fairly claim to have done a good piece of work in this new and unexplored field

A. T. H.

## BOOKS RECEIVED.

- ASHLEY, W. J. *An Introduction to English Economic History and Theory.* Part 2. The End of the Middle Ages. N. Y., G. P. Putnam's Sons.
- BISHOP, C. F. *History of Elections in the American Colonies.* (Studies in History, Economics and Public Law, III. 1.) Columbia College.
- BLACKWELL, ANTOINETTE B. *The Philosophy of Individuality, or The One and The Many.* N. Y. and London, G. P. Putnam's Sons.
- BONAR, JAMES. *Philosophy and Political Economy in some of their Historical Relations.* London, Swan Sonnenschein & Co.; N. Y., Macmillan & Co.
- BOWEN, H. C. *Froebel and Education by Self-Activity.* N. Y., Charles Scribner's Sons.
- CAPERS, HENRY D. *The Life and Times of C. G. Memminger.* Richmond, Va., Everett Waddey Co.
- CARPENTER, E. *Lorenzo de Medici.* An Historical Portrait. N. Y. and London, G. P. Putnam's Sons.
- CRAWFORD, F. MARION. *Pietro Ghisleri.* N. Y., Macmillan & Co.
- The Defence of Professor Briggs before the General Assembly.* The Case against Professor Briggs, Part III. N. Y., Charles Scribner's Sons.
- DEMENT, RICHMOND S. *Napoleon, A Drama.* Chicago, Knight, Leonard & Co.
- DEWITT, JOHN. *What is Inspiration? A Fresh Study of the Question with New and Discriminative Replies.* N. Y., Anson D. F. Randolph & Co.
- DROYSEN, JOHANN GUSTAV. *Outline of the Principles of History.* (Grundriss der Historik), with a biographical sketch of the author. Translated by E. Benjamin Andrews. Boston, Ginn & Co.
- DURKHEIM, EMILE. *De la division du travail social.* Paris, F. Alcan.
- FOOTE, A. R. and EVERETT, C. E. *The Law of Incorporated Companies Operating under Municipal Franchises.* Cincinnati, Robert Clarke & Co.
- GOULD, GEORGE M. *The Meaning and Method of Life.* A Search for Religion in Biology. New York and London, G. P. Putnam's Sons.
- IRVING, HENRY. *The Drama.* Addresses by, . N. Y., Tait, Sons & Co.
- JUGLAR, CLEMENT. *A Brief History of Panics and Their Periodical Occurrence in the United States.* Translated by DeC W. Thom. N. Y. and London, G. P. Putnam's Sons. (Questions of the Day Series)
- JOLLEY, ALFRED J. *The Synoptic Problem for English Readers.* London, Macmillan & Co.
- KINLEY, DAVID. *The History, Organization and Influence of the Independent Treasury of the United States.* Library of Economics and Politics, number 1.) N. Y., T. Y. Crowell & Co.

- LEROY-BEAULIEU, ANATOLE. *The Empire of the Tsars and the Russians*. Translated from the 3d French edition by Z. A. Ragozin. Part 1. The Country and its Inhabitants. N. Y. and London, G. P. Putnam's Sons.
- M'KENDRICK, J. G. and SNODGRASS, W. *The Physiology of the Senses*. N. Y., Charles Scribner's Sons.
- MORFILL, W. R. *The Story of Poland*. (The Story of the Nations Series). N. Y. and London, G. P. Putnam's Sons.
- MORRIS, WILLIAM O'CONNOR, *Napoleon, Warrior and Ruler, and the Military Supremacy of Revolutionary France*. N. Y. and London, G. P. Putnam's Sons.
- PELHAM, H. F. *Outlines of Roman History*. N. Y. and London, G. P. Putnam's Sons.
- PIEPENBRRING, CH. *Theology of the Old Testament*. Translated by H. G. Mitchell. N. Y., T. Y. Crowell & Co.
- POST, W. K. *Harvard Stories*, Sketches of the Undergraduate. N. Y. and London, G. P. Putnam's Sons.
- RAMSAY, W. M. *The Church in the Roman Empire*. (Mansfield College Lectures, 1892.) N. Y. and London, G. P. Putnam's Sons.
- RIPLEY, WILLIAM Z. *The Financial History of Virginia, 1609-1776*. (Studies in History, Economics and Public Law, IV. 1.) Columbia College.
- ROCKWELL, J. E. *Shorthand Instruction, and Practice*, (Bureau of Education, Circular of Information, No. 1, 1893.) Washington, Gov't Printing Office.
- SCOTT, WILLIAM A. *The Repudiation of State Debts*. A Study in the Financial History of Miss., Fla., Ala., N. C., S. C., Ga., La., Ark., Tenn., Minn., Mich. and Va. (Library of Economics and Politics, 2.) N. Y., T. Y. Crowell & Co.
- STEARNS, LEWIS F. *Present Day Theology*. A Popular Discussion of Leading Doctrines of the Christian Faith. N. Y., Charles Scribner's Sons.
- Studi di Storia Antica*, pubblicati da Giulio Beloch, Fascicolo II. Roma, E. Loescher & Co.
- SWIFT, M. I. *A League of Justice, or Is it Right to Rob Robbers?* Boston, The Commonwealth Society.
- SYMONDS, JOHN A. *Studies of the Greek Poets*. London, Adam & Charles Black.
- TRENHOLM, W. L. *The People's Money*. N. Y., Charles Scribner's Sons.
- VAN DYKE, HENRY S. *Sermons to Young Men and Other Human Beings*. N. Y., Charles Scribner's Sons.
- VERRALL, A. W. "*The Chaphori*" of *Æschylus*, with an Introduction, Commentary and Translation. London and N. Y., Macmillan & Co.
- WEST, MAX. *The Inheritance Tax* (Studies in History, Economics and Public Law, IV. 2) Columbia College.
- WOLFF, HENRY W. *People's Banks*, A Record of Economic and Social Success. London and N. Y., Longmans, Green & Co.

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COMMENT.

*Government for the Minority and by the Minority: Clearing House Loan Certificates: Professor Fowett as an Educator.*

THE conduct of the minority in the Senate in opposing the repeal of the silver purchase clause is the worst case of the kind with which we have had to deal in American politics; but unhappily it does not stand alone. The same sort of thing has been repeatedly done near the end of Congressional sessions, when a few members have had it in their power to defeat action by talking against time in the closing hours. There was an historic case of this kind in connection with the Wilmot Proviso, and a threatened case, which served its purpose, in the tariff legislation of 1883.

Such obstructive tactics are the logical outcome of a theory which makes members of Congress responsible to their districts or their States, rather than to the country as a whole. Condemn as we will the conduct of the senators from the silver states, for thwarting the wishes of the country for the sake of a locality,—they are only doing in a flagrant case the same sort of thing which is done over and over again in River and Harbor bills and other expenditures of public money. The average congressman thinks of the good which comes to his district, and not of the harm which comes to the public treasury. If the district can gain at the expense of the nation, he deems it his duty to promote such gain. We have had a case of this sort in Connecticut in the last few weeks, where certain towns had paid a large sum



of money to have a certain bridge transferred from the charge of the towns to that of the State. The circumstances attending the payment of the money were suspicious; yet most of the towns concerned refuse to investigate the matter, for the thinly disguised reason that they got more than their money's worth out of the State treasury. So dear is the privilege of appropriating general funds to special uses, that the beneficiaries of such a process shut their eyes not only to the real character of the transaction, but to the means by which it is brought about.

The silver question in its present form offers an instance of the same general sort. The silver mining districts seem to gain by the continuance of silver purchase; therefore the senators exhaust every means to continue such purchase in defiance of the expressed will of the rest of the country. But in the light of Congressional traditions, why should they not do so? If it is right to convert the capital of the country to local or partisan uses under pretext of legislation, it is a very slight sin to exhaust every parliamentary resource to prevent the majority from repealing such legislation.

The long continued existence of a treasury surplus, and the outrageous pieces of special legislation connected with it, have so undermined Congressional ethics that representatives and senators both have very hazy ideas of the application of the eighth commandment to public moneys. Many of them, to all intents and purposes, believe that it is right to take public money for district uses, if the majority votes that way; and they are no doubt honestly shocked at the silver men, who want to continue the same course when the majority does not vote that way. But respect for majorities will never take the place of respect for the Ten Commandments, even though it may appeal more forcibly to the average politician. The only safe thing to do in the long run is to take strong ground against stealing in all its forms; even against stealing from the nation, in behalf of a district, under cloak of law.

The financial troubles of the past summer will not have been without their uses, if they can be made to throw light upon the best method of solving some old problems of finance. One of the troublesome problems of the last crisis was that of meeting a sudden demand for loanable funds at a time when the usual supply was locked up. It is obvious that an increase in the total money supply of a country renders practically no aid at all in meeting this difficulty.

The circulation of our country, for instance, has been steadily increasing during the past thirty years. In 1863 it amounted to \$17.84 per capita, in 1883 to \$22.91, and on October 1st, 1893, it amounted to \$25.29. A large amount of currency in a country does not, therefore, imply a large supply in the vaults of the banks.

A resort can, of course, be had, under our national banking laws, to national bank notes, and the effect of the crisis of July was to create a demand for additional issues, the national bank circulation having risen during the single month of September by \$9,700,000, and during the twelve months preceding by \$35,900,000; but this is at best a slow method, and is not available on short notice, nor is it easy to contract the issues when the crisis is over. The banks of New York, and some other cities, therefore, resorted to a measure which had been adopted occasionally before, though never on so large a scale, and issued clearing house loan certificates. These are certificates of deposit issued by the clearing house to any bank that needs them, and secured by such securities as may be acceptable to the managers of the clearing house. They are available for paying clearing house balances, but not for any other purpose. They are, of course, not legal tender, and they are only good among the banks that agree to accept them. Nevertheless, they have the effect of releasing, for general banking purposes, the currency that would otherwise be held back to pay clearing house balances. They have, therefore, the effect of increasing, as far as they are available, the loanable funds of the banks, and they do this on a very large scale.

The maximum amount of certificates issued in the three cities of New York, Boston, and Philadelphia, was over

\$55,000,000, or about thirty-two per cent. of the total circulation of the national banks, September 1st, 1892.

If we look at New York alone, where the issue reached its maximum on August 29th, with \$38,200,000, we find that this sum was forty-four per cent. of the reserve of the New York banks on August 26th, and was nearly seven times the outstanding circulation of the New York Banks on July 1st. It is obvious, therefore, that the clearing house certificate is a very powerful engine, which can be put in operation at very short notice and on a large scale in financial centers, in order to make up temporarily for a stringency in currency. There is also no doubt, we believe, as to the general good results which this action produced upon the mercantile community at the time.

This method of meeting a stringency, though different in form, is peculiarly analogous in essence to the method which has been adopted by the Bank of England in similar emergencies. The fiduciary circulation of the Bank of England is limited by law to a sum equal, at present, to about £15,500,000. There is, therefore, no way by which the circulation of the Bank of England can be increased, except by a withdrawal of an equivalent amount of gold. On three occasions, however, in 1847, 1857, and 1866, the Bank of England has been allowed by the government to disregard the limitations of Peel's Act on the circulation, and to increase the volume of its notes which are based upon securities. On two of these occasions it did not actually take advantage of the permission given it, but in 1857 the banking department did carry to the issue department certain securities for which it received £4,000,000 worth of notes.

The formal difference between these two methods is very great. In one case the action is taken by a group of banks, in the other by a single bank. In one case it is taken spontaneously, in the other case it is taken with the sanction of the government. In one case it results in the issue of certificates which have no legal tender power, and are not current, excepting among a small group of banks, and then only for a specific purpose; in the other case it results in issuing bank notes enjoying the same legal tender quality as

other bank notes; yet, in their essence, the two processes are singularly alike. In both cases the ultimate result is to turn securities, for the time being, into currency.

It thus appears that in both countries it has been found desirable in a panic, to provide a means by which good securities can be made to take the place of currency.

Under these circumstances the question may well be raised whether it would not be wise for Congress to make this method of meeting a crisis more effectual by legalizing it, and at the same time put it under control in order to prevent any possible abuse.

The death of Professor Jowett, the Master of Balliol, deserves more notice than it has received from the American public. It is not as a translator of Plato and Thucydides, nor as a leader in the Broad Church movement, that he bears his chief title to remembrance, but as an educator of English students in the transition period between ancient and modern methods of study. He may lay special claims to a tribute from the *YALE REVIEW*, since his work had much in common with that of the men who have given the distinctive features to Yale thought and Yale education.

The intellectual life of Oxford before Jowett's day was largely connected with religious and theological controversy. It was around men like Pusey, or Newman, or Arnold, that the student thought of the second quarter of the century grouped itself. A few of these well defined groups were in a ferment of activity; the rest of the University world was in intellectual stagnation. With his advent at Balliol, Jowett introduced a zeal for work independent of theological or religious ideals. He taught men to aim at tangible objects immediately before them. He was thoroughly at home in the modern system of competition, and developed that competition for all it was worth in Oxford University life. Balliol became a reading and working college, in a way that distinguishes it from all other colleges at Oxford. Critics might object that Jowett's ideals were narrow; that he made men work from lower motives rather



than higher, for honors rather than for humanity. But work they did, and that right hard; and to Jowett's mind this was the main thing. Better to work for an examination than to dawdle for an ideal. Of course this attitude did injustice to a few men of the very highest type; but where it did injustice to one, it shook the nonsense out of half a dozen. Jowett unquestionably had the feeling that, while men were at the University, they were best occupied with University ambitions; it was time enough to settle the world's problems when they were actually in the world.

But Jowett and Jowett's pupils were on the whole inclined to take the world's problems in the narrower rather than the broader sense. Jowett was an excellent committee-man, and an indifferent theologian. The dogmas of the Church and the dogmas of science both failed to arouse enthusiasm in him. He was attached to the Church as a working institution; its value to him in this respect far outweighed considerations of theology. His scepticism as to miracles was thrown into the background by his scepticism as to the importance of the subject of miracles. He probably had the same scepticism as to the importance of the conservation of energy or of the doctrine of natural selection. He was assailed by zealots of all shades of opinion; but he might well have replied, as Montucla did before him: "It is the business of the Sorbonne to discuss, of the Pope to decide, and of a mathematician to go straight to heaven in a perpendicular line." He was not a man of the future, who created new thought; but he was emphatically a man of his day, who stimulated the existing thought, and brought it into practical, healthful contact with the work of everyday life.

## RESULTS OF RECENT INVESTIGATIONS ON PRICES IN THE UNITED STATES.<sup>1</sup>

**I**N 1891, at a time when the effects of protective duties on prices and on the expenses of living were under active discussion, the United States Senate authorized its Finance Committee to collect facts and figures to show what the actual course of prices and wages in the United States had been. With commendable judgment and impartiality, the Committee put the work of securing and digesting the desired statistics into the hands of men whose ability and training ensured trustworthy results. The collection of the primary facts was given to the trained force directed by Commissioner Wright of the Bureau of Labor,—a name which gives ample assurance that this fundamental part of the investigation was conducted with perfect skill and scrupulous care. The arrangement and digesting of the ample material gathered by the Bureau of Labor was entrusted to Professor R. P. Falkner, to whose choice economists and statisticians owe a most discriminating analysis and presentation of the results.

The first report of the Committee, issued in 1892, presented statistics on the course of retail prices immediately before and immediately after the date when the tariff act of 1890 (the McKinley Tariff Act) went into effect. The statistics there given, meant to show the first effects of that measure, bore on a subject of only temporary interest, and indeed were at best of no great significance. But the signal skill and care with which they had been gathered gave promise of results of more enduring value when a wider and more important range of subjects should be covered. Such results we have in the second report of the Committee, published in the present year (1893). On the specific subject which gave the impulse to the whole inquiry,—the

<sup>1</sup> This paper, read before the International Statistical Institute at Chicago, is here published through the courtesy of the Institute. It will appear in due time in the *Bulletin* of the Institute.

effect of tariff legislation,—it is indeed doubtful whether much has been contributed to the solution of disputed questions. But on some subjects at least as important, on economic history, and on the history and theory of currency and prices, we have a mass of material the importance of which it would be difficult to overstate.

The second report covers wholesale prices from 1840 to the present time. It contains also a valuable collection of statistics on rates of transportation, and on money wages; but we are here concerned chiefly with the statistics of prices. The wholesale prices of 223 articles were obtained for every year from 1860 to 1891; and the prices of 90 out of these 223 articles were secured from 1840 to 1891. These returns are digested and arranged by Professor Falkner in a manner to enable the investigator to follow closely the methods employed, and to display with perfect clearness the results attained. On the period from 1840 to 1860 the range of material covered is as wide as that in any other investigation of the same sort; while for the period from 1860 to 1891 it is much wider. Clearly we have here a contribution of signal importance to the statistical material without which so many questions, both of permanent theoretical interest and of immediate practical importance, cannot be answered. It would be useless to attempt to discuss all the noteworthy results of the investigation. I shall consider one or two points only; and, more especially, the methods employed in the securing the general index number for the movement of prices as a whole, and the results as to the movement of prices under the influence of the paper money issues of the civil war.

In presenting the results for comparison year by year, 1860 was selected in all cases as the base. That year was a normal one, marked by prices neither much higher nor much lower than those of the years immediately before and after. It was the first year for which the statistics were fully secured for the whole list of 223 articles. It marks the beginning of a new period in the economic development of the United States; and it gives a convenient standard for measuring the extraordinary effects of the emissions of paper

money during the civil war of 1861-65. The grounds for selecting it as the base are thus amply sufficient; and an easy transposition enables comparison to be made with the European statistics of prices in which the base is usually the period immediately preceding the great gold discoveries.

The year 1860 being thus selected as a base, the price of each commodity for that year was indicated by the figure 100, and prices for other years, in the familiar method, by the figure indicating the ratio to the price of 1860. In generalizing the results, and securing a figure which should indicate the general range of prices in any year as compared with 1860, the question arose whether to use the simple arithmetical average of these ratios or the average weighted according to the importance of the commodities. Professor Falkner wisely chose to apply both methods. By so doing he not only made his results as accurately significant of the complicated course of actual prices as is possible under any method of fictitious average; he also gave the economist and statistician the best opportunity yet afforded them of judging the merits of the two methods and the extent to which they yield different results.

The application of the method of arithmetical average is simple, and needs no special consideration. That of weighted average is more difficult. It calls for great care and discrimination; and the mode in which it was used may be briefly described.

The method adopted was to assign weight to different commodities in proportion to their importance in the budget, or expenditures, of families of moderate means. The Seventh Annual Report of the Bureau of Labor had contained a large number of valuable budgets, showing the distribution of the expenditure of a normal family for food, clothing, rent and other purposes. The previous report on retail prices in 1891, made for this Senate Committee, had contained further, more detailed budgets, in which the items of expenditure were stated with a very minute designation of expenditure for specific purposes. The expenditure for food was separated into items for beef, hog products, butter, milk, eggs, fish, flour, potatoes,—21 items being so itemized



that for clothing was separated into husband's, wife's, children's expenses for clothes, hats, shoes, and so on; and miscellaneous expenditures were similarly itemized. In proportion as articles formed a larger or smaller part in the expenditure of normal families thus analyzed, they were given greater or less weight in deducing the average of prices for any year.

Two questions arise as to this method of weighting. One is as to its soundness in principle; the other as to the success with which it can be worked out in detail.

The question of soundness in principle is not specifically raised by Professor Falkner. But he rejects, as inferior, the method followed by Mr. Palgrave and others, of weighting commodities according to the extent to which their total money value enters into the total expenditure of the community. Clearly the question whether the budget method is sounder than the total expenditure method depends, in good part, on the object sought to be attained. If we seek merely a conclusion as to the value of money,—as to whether prices have risen or fallen,—the total expenditure method is faultless: the only doubt,—this, to be sure, a very serious one,—can be, whether it is feasible to ascertain the total expenditure on a number of commodities large enough to make the general result trustworthy. If, however, we seek conclusions, not so much on the simple question of monetary changes, but on the social consequences of such changes, the budget method is clearly better. If we wish to know whether any particular class in the community is better or worse off in consequence of changes in prices, we must make the inquiry with reference to the distribution of expenditure by its members. More particularly, if we wish to know how those in the community who earn their bread by manual labor are affected by the movement of prices, we must inquire whether their money income, as distributed in one direction or another, yields them more at one time than at another. Proceeding from the social point of view, it might be possible, from a given set of figures, to conclude that the expense of living for the workingman had risen; while yet, from the simple monetary point of view, the same

figures might make it clear that prices had fallen. Food, for example, forms a large part—40 per cent.—of the total expenditure of the workingmen's families whose budgets were chiefly used by Professor Falkner. A rise in the price of food, measured by its importance in their budget, might cause their expenses of living to rise. Among the well-to-do and leisured classes, however, a rise in the price of food would be of less importance, and might easily be overbalanced by a fall in the price of other things. The well-to-do class might be a comparatively large part of the population, and might expend two-thirds of the total income. Under such conditions, the method of total expenditures would rightly show that general prices, considered with reference to the importance of different commodities, had fallen. Yet the budget method would show that the expense of living of that class in the community whose welfare most enlists the interest of the social philosopher, had not fallen, but risen.

Evidently, the results of these two methods of weighting would be the same, if the families whose budgets were used to ascertain the importance of the commodities were families representing the average direction of expenditure in the whole community; not "typical" families in the sense of representing the usual expenditure of a given class under normal conditions, but "average" families, representing by a sort of accident the distribution of expenditure in the whole community. The question may arise, whether the budgets used in Professor Falkner's report are typical for a class, or averages for a community. They are of families with moderate incomes, yet incomes of the working class type, as is indicated by the large proportion of expenditure (40%) for food. If the people of the United States, as a whole, spend something like 40 per cent. of their total income for food, the budgets of these families give a truthful means of ascertaining how much stress should be laid on changes in the price of food, in measuring the general movement of prices. We can only guess what this proportion may be. If the well-to-do class is large in number, and if its share in the total national income is great, so heavy an expenditure for food would

hardly hold good for the whole community. The abounding and growing expenditure which we see on all sides by those whose lot is easy, suggests at least a doubt whether the budget method, as applied in this investigation, supplies us with a key to all the difficulties in giving to different commodities their due weight in getting a general expression of the rise or fall in the value of money.

So much as to the questions which may arise on the soundness in principle of the budget method of weighting; from which we may proceed to a consideration of the success with which it was applied in detail. The difficulties in the way of the other method of weighting, that by total expenditure, are obvious. It is impossible to ascertain the total expenditure by the community on more than a few articles, and these largely raw materials, like cotton, wool, iron, wood, which enter into actual consumption in the most diverse and complicated ways. Hence the total expenditure method, as applied for example by Mr. Palgrave to the Economist's figures, can not be said to promise more satisfactory results than the simple method of unweighted arithmetical average. The question arises whether the budget method is susceptible of more accurate application in detail, and so promises better practical results.

Here we find that Professor Falkner's industry and discrimination, and the large resources put at his disposal by the Bureau of Labor, have yielded results solid in character and as little in need of correction and allowance as the inherent difficulties of the problem made possible. As has already been said, the expenditure by the selected families (232 in number) was followed into its details for individual items,—for beef, eggs, flour, potatoes, clothing, light, fuel, and so on. The price of each commodity was known year by year, and was given weight, in making up the general index number for each year, according to its importance in the family budget. This could be done with ample completeness and accuracy as to food. With other items of expenditure, the method was more difficult of application. The budget stated what proportion of the family expenses went for the clothing of husband, wife, children. But the list of prices showed

only what certain woollen goods, cotton goods, silks, linens, leather, and shoes, had cost. It was necessary to combine and group the quotations of prices in such manner as to fit the items of expenditure. Thus the prices of suitings were used in connection with the preparation of expenditure on men's clothing; of shoes and leather combined, for shoes; of dress goods, for women's clothes; of blankets, flannels, cotton textiles, and linen goods, for all other items of clothing. These combinations were made with skill and judgment; yet they inevitably introduced an undesirable artificial element into the process of weighting.

Clearly, some items of expenditure could not be fitted at all, or only by arbitrary supposition, into the figures of prices. Rent is a large item in expenditure; but how much of this goes for bricks, wood, glass, it is impossible to say. A considerable expenditure among the selected families had not been itemized at all, but simply set down in the budget as "miscellaneous." This was taken into account, nevertheless, in making up the weighted average, by assuming that one half of this miscellaneous expenditure was for the direct purchase of commodities; and by assuming further that these commodities, already assumed to be directly purchased, consisted of all the articles in the list which had not already found a place in the specifically itemized articles of the budget. The prices of all these articles, not traceable in the budget statements, were yet given an importance in forming the general average, determined by the proportion which one-half of the miscellaneous expenditure had in the total expenditure of the family. These other articles, it may be noted, included all the metals and implements whose prices were quoted, all the drugs and chemicals, all the lumber and building materials. Here again we have an artificial element of considerable importance,—a supposition and not a fact in the distribution of expenditure and the consequent weighting of commodities. This description of itself suffices to show how difficult it is to carry out into practice the budget principle of weighting commodities according to their importance.

In one way or another, partly by direct and specific assignment of items of expenditure to prices of individual



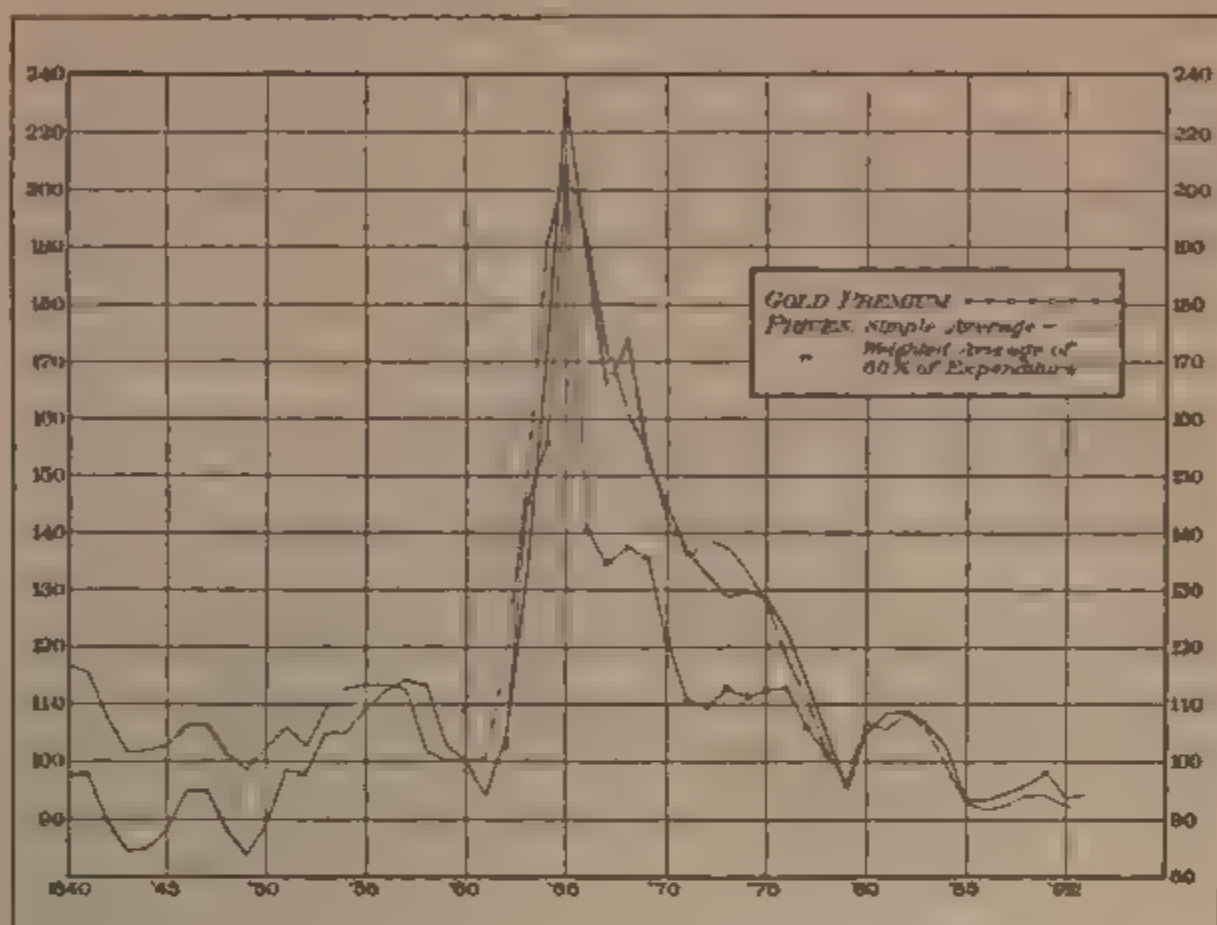
articles, partly by adjustments and suppositions such as have been referred to, 68.6 per cent. of expenditure was accounted for, and a weighted average of prices was calculated, resting on the importance of the various commodities in this part of the expenditure in the families of moderate means. Two sets of general index numbers were made out on this weighted method. In one, the index numbers were calculated by applying the figures of prices only to this 68 per cent. of specifically apportioned family expenditure. In the other, the same apportionment or weighting was used, but it was assumed that the rent and other items of expenditure, whose prices were not ascertainable, remained equal in amount. This second set of index numbers seems to be of very doubtful value; and in the comparison of the results of the weighted and the simple average, it will be neglected, and attention will be confined to the first set, in which the greater part of the family expenditure is itemized and is used to give importance to the different commodities.

If these two methods, then, of simple arithmetical average on the one hand, and average weighted by family budget importance on the other hand, yielded greatly different results, we might be perplexed which to use as significant of the general course of prices. The arithmetical average is simple and straightforward, and brings little liability of unnoticed error. It is obviously faulty in principle, since it gives all commodities equal weight, but, by taking a very large number of commodities, the mistakes of emphasis may be expected to balance each other. The budget-weighted method is sounder in principle; but the budgets may not be fairly representative, while the ascertainment of proportional expenditure is difficult, and necessitates artificial allowances and assumptions. Fortunately, in the present investigation, the two methods lead to results so surprisingly in agreement that we may be sure neither is greatly in error. Between the two, we have an indication of the general movement of prices as accurate as is likely to be secured by any method.

A glance at chart I will show that from 1861 to 1891 the lines indicating the movement of prices, one drawn by

the simple arithmetical average, the other by the budget-weighted average, run together with remarkable closeness.<sup>1</sup>

CHART I.



During the years from 1840 to 1860, it is true, they diverge, the weighted average being lower than the simple average. But this difference is probably due largely to the fact that a much smaller number of commodities was taken in account in forming the averages before 1860; and further to the greater difficulty of securing quotations of prices before 1860, which it was possible to fit to the items of family expenditure. There is, indeed, another not improbable explanation of the divergence. Prices of food of various sorts were lower before 1860 than since; food is given a large weight in the budgets, hence a low price of food before 1860 would perhaps lower the general index number as ascertained by

<sup>1</sup> This chart also has a line indicating the course of the premium on gold from January to January of each year, to which reference will be made at the close of the paper. For the present, the lines indicating the movement of prices, as ascertained by the two methods, alone need attention.

the budget-weighted method, more than by the simple average method. It is unfortunate that the less complete material at our disposal before 1860 makes it uncertain whether we have here a case of really important differences in result, due to difference in method.

But, to repeat, in the thirty years since 1860, for which we have ample material, the results are in remarkably close correspondence. During the civil war, the lines move together with an evenness which is extraordinary, in view of the anomalous conditions of that period of inflation and confusion. The prices from which the averages are reduced, it must be remembered, are January prices. During 1863, 1864, and 1865, January prices might differ widely from December or February prices; and either the weighted or the simple average might be seriously affected by the accident of a month's variations. Bearing this in mind, we must be surprised to find that both methods agree as closely as they do in their evidence on the rise of prices due to the great paper issues. They agree, too, and even more closely, in showing the gradual decline in prices after the high water mark had been reached in 1865. A check to the downward movement came in the speculative period which preceded the crisis of 1873. The rapid decline was resumed after 1873, and reached its end with the period when the resumption of specie payments was effected, in 1879. It is clear that the effects of the paper money issues of the war did not exhaust themselves until that year, when prices were finally at the point from which they had started before the inflation began. The wrongs, the injustice, the chaos in the relations of debtor and creditor, the instability of all industrial enterprise, the occasions for unearned fortunes and undeserved calamities, which must result from sudden changes in the volume of the currency, could not be more vividly illustrated than by the soaring line of 1862-65 and its sinking successor in 1865-79.

That the fall in prices to the specie point coincided with the date fixed for the resumption of specie payments, can not be regarded otherwise than as a lucky accident. The fall was due in but slight degree to legislative action in contract-

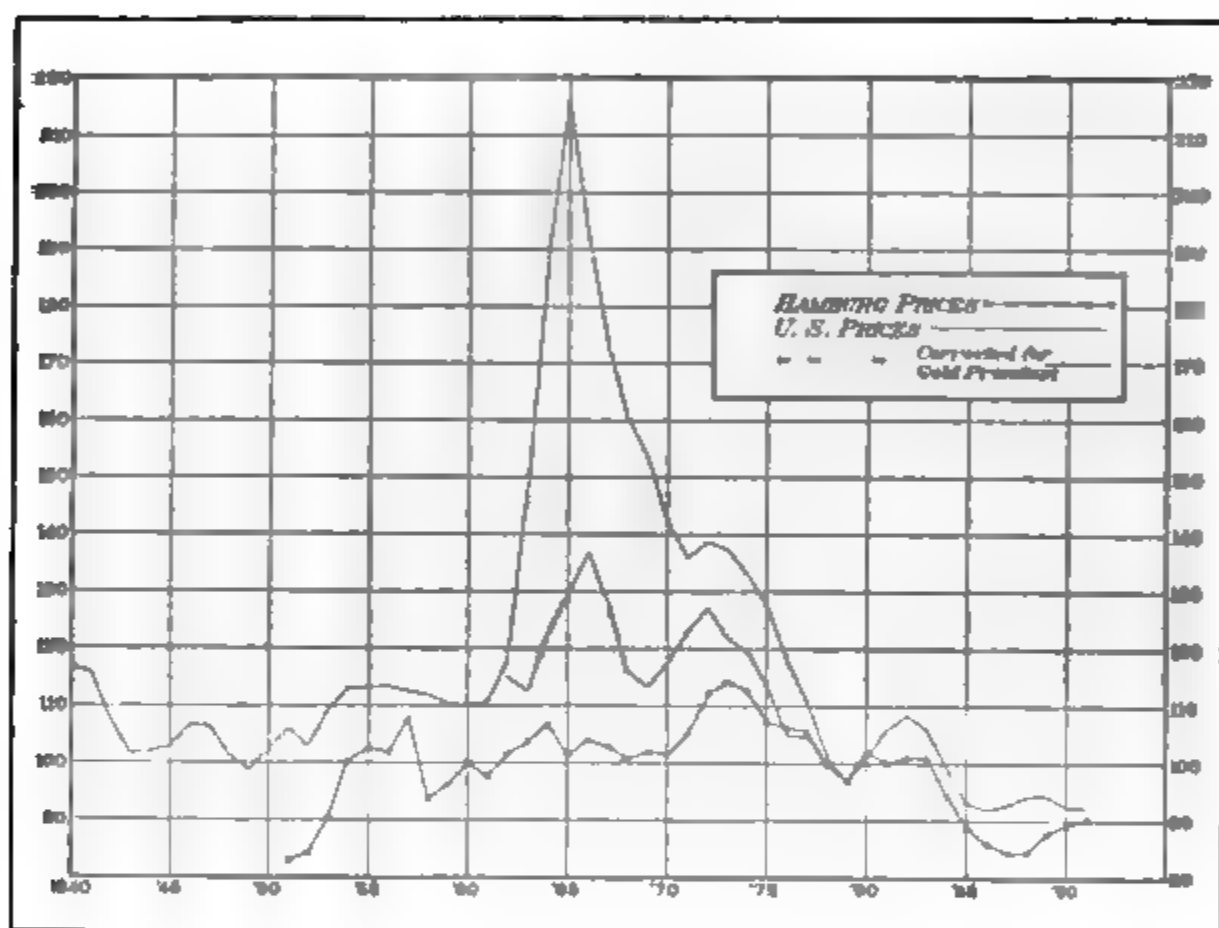
ing the quantity of the paper money. The decline after 1873 was caused directly, in the main, by the lessening volume of credit substitutes for money after the crash of 1873; it was aided by the growing transactions of the growing population, or by the process then described as "growing up to the currency"; it was made inevitable by the altered conditions of foreign trade after 1873. As it happened, prices were fortunately on a specie basis when resumption was undertaken, and to this mainly is due the ease and success with which a solid specie basis was again secured. Since 1879, the movement of prices illustrates the more normal ups and downs of modern industry and trade. The years 1880-84 bring an upward movement, partly of a speculative character; the depression of 1885-86 causes a decline; then there is an even movement, with an upward tendency due to the unusually favorable conditions of 1890; finally a decline in 1891, which it is safe to say would be farther continued for 1892 and 1893, if the investigation were carried to these years.

While noticing the general range of prices in the United States, it will be of interest to make a comparison with the movement of prices in Europe. For this, we may use the late Professor Soetbeer's statistics on Hamburg prices since 1850. These statistics were related to a large number of articles, and are averaged by the simple arithmetical method; their index numbers may be compared with the index numbers got by the same method for the American prices. They have been reduced to a basis of 100 for 1860, and their movement, with that of the American prices, is indicated on chart II. For the period of the inflated currency and specie premium, this comparison is of little value. It is true that American prices can be reduced to a specie basis by making allowance for the specie premium for the time being. But the effect of the paper money inflation can not be eliminated in this simple way, as will presently be explained. Rather for the satisfaction of curiosity than for any other reason, I have corrected the American prices for the specie premium during 1862-1879, and indicated the corrected movement by the unbroken line



on the chart. But the working of the paper money presents problems not capable of solution by this simple method, and no safe comparison with European prices can be made for the period of suspended payments. For the period before 1862, and after 1879, the results are more useful. The lines

CHART II.



on the chart indicate of course not relative prices, but the relative movement of prices. They seem to show that, as compared with the period before the Civil War, the movement of prices in the United States has been downward more distinctly than it has been in Europe, and that the difference between the range of prices is less than it was a generation ago. This result is in accord with what we should expect on grounds of general reasoning. As the United States progresses, and reaches more nearly the conditions of a fully-settled and occupied country, we should expect the difference in economic conditions from those of older countries to become less marked, and prices, among other things, to show a range less above that of European

countries. Our high protective tariff has probably retarded in some degree the levelling influence; but the general forces seem to have exercised their influence none the less.

Another and highly important phase of the monetary history of this period receives attention in that part of the Report which presents statistics on wages. The methods and results of this part of the investigation are to be discussed by another hand;<sup>1</sup> but some of the salient results may be here noted.

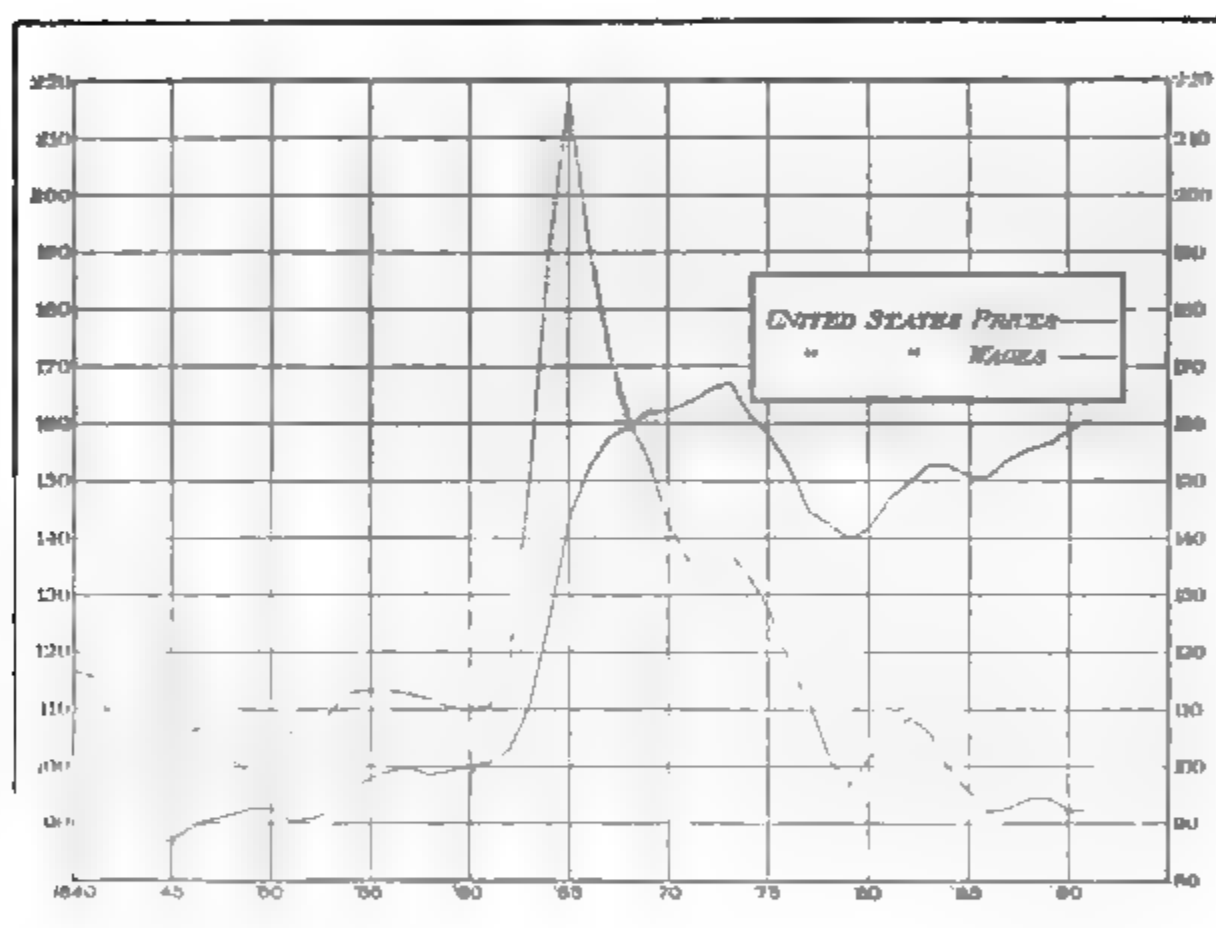
Returns of wages for 543 distinct series of laborers were obtained for the period from 1860 to 1891, and for 61 of these series returns were obtained for the whole period from 1840 to 1891. Average wages for each of 21 occupations were computed on the index number plan; and a general index number indicating the movement of wages for all the occupations was also computed. In these calculations, the wages for 1860 were again taken as the base, and the results thus made readily comparable with those for prices. The average, or index numbers, are in one sense more accurate and significant as to wages than they are as to prices. The divergence of the individual wages from the average of any one occupation is comparatively small: the average is more nearly a true average. So as to the movement of wages in one occupation, as compared with the general movement: the upward or downward fluctuations in the general average is reflected with greater faithfulness in the average wages of the several occupations than is the general movement of prices in the quotations for particular articles or groups of articles. The inevitable fictitious quality of a general index number thus calls for less constant allowance in using these results of the statistics of wages than in using the figures for prices.

The main results as to general money wages are indicated in the appended chart III, on which the general index numbers of wages are plotted. For readier comparison, the line indicating the movement of prices (calculated by simple

<sup>1</sup> In a paper presented to the International Institute of Statistics by Colonel Carroll D. Wright, of the Department of Labor. It will appear, with the present paper, in the *Bulletin* of the Institute.

average) is also given. It will be seen that money wages responded with unmistakable slowness to the inflating influences of the Civil War. In 1865, when prices stood at 217 as compared with 100 in 1860, wages had only touched 143. The course of events at this time shows the truth of the common statement that in times of inflation wages rise less quickly than prices, and that the period of transition is one of hardship to the wages-receiving class. On the other hand, the sluggish movement of wages shows itself in the opposite way

CHART III.



in the succeeding period of falling prices. As wages rise less quickly than prices, so they fall less quickly. The upward movement of wages continued after 1865, rapidly until about 1867, thereafter more slowly. But for the activity of the speculative period preceding the crisis of 1873, it is probable that money wages would have begun to fall again as early as 1870. As it was, the advance continued slowly, until the crash of 1873 precipitated a downward movement which lasted until 1879, and corresponds to the abrupt fall of prices during

the same years. With the resumption of specie payments, and the new and more solid start which the industry of the country then took in all directions, a striking inverse movement of wages and prices took place. From 1879 wages rise; there is a slight interruption of the upward movement in the depressed years 1884-86, but otherwise the rise is steady. Prices rise in the "boom" years 1880-82, and thereafter fall unmistakably. Taking these years as a whole, we have strong testimony of that inverse movement of prices on the one hand, and of wages, and indeed all money incomes, on the other hand, which seems to have taken place in all civilized countries during the last generation. It may be fairly said that this inverse movement shows itself in the United States even before 1879. In the long period of depression that lasted from 1873 to 1879, wages fell more slowly than prices, the inevitable readjustment from a paper to a specie standard operating more incisively in the decline of prices. Wages virtually rose, as compared with prices, before the direct rise in money wages set in. All in all, the figures show that the purchasing power of money wages has been rising steadily for at least twenty years, and that the decline in prices since 1873 and especially since 1882 has been a source of prosperity and not of depression to the community at large.

From this digression in regard to wages we may return to some further consideration of the movement of prices, and, more particularly, to an interesting phase of that movement during the period of inflation: the relation between the specie premium and advance in general prices. For some purposes, it is necessary to regard the premium on specie as a mark of the depreciation of an inconvertible paper money. But economists have long been attentive to the fact that the real depreciation—the rise in prices over and above what they would have been if the currency had remained on a specie basis—is by no means measured with accuracy by the specie premium. The premium may be greater than the general rise in prices; it may be less. So far as the United States during and after the civil war is concerned, it has been usually supposed that in the first stages



of the paper emission, and especially during 1863-65, the specie premium was greater than the general rise in prices; while in later years, say in 1866-70, the reverse is supposed to have been the case, the rise in prices being greater than the gold premium. It is pertinent to inquire what light our statistics throw on this aspect of the history of prices.

Unfortunately, the fact that the index numbers were calculated on the basis of January prices makes it possible to get conclusions only of a very limited sort. On chart II the general index number of prices, as they stood in January of each year, is compared with the gold premium as it stood in January. For the earlier years of the paper-money period, however, the comparison derivable from the lines is of little value. During the first years of the period, from 1862 to 1865, prices and the gold premium fluctuated with great rapidity and with extraordinary irregularity. The paper-money issues were on a large scale, and depreciation set in very quickly. The progress and extent of the real depreciation, as indicated by the change in prices, could be ascertained only by getting statistics from month to month, or, indeed, from week to week. The gold premium reached its highest point in July, 1864, when it touched 285. Throughout 1865 it fluctuated violently. It ranged between 285 and 222 in the month of July, 1864, and during this year ranged between 245 and 151. How prices fluctuated during this feverish year, we have no means of knowing. Few individual commodities showed fluctuations as great as gold, and a general index number, month by month, would probably show a less spasmodic and irregular movement than did the gold premium. It is still possible, even probable, that the general movement of prices lagged behind the gold premium. In the first month of 1865, for which we have the high index number of prices indicated on the chart, there is no great difference between the gold premium and the index of prices; but it is not improbable that by this date prices had just attained their highest point, while the premium on specie was already on the decline. All this, however, is speculation; our statistics do not give us more than a hint of the course of events during the period

of sudden inflation. It should be said, however, that the materials for a more detailed investigation are contained in the specific quotations of prices printed in the body of the Report. There the economist will find quotations of prices for all the articles for each quarter of each year,—for January, April, July, and October. Index numbers prepared from these quarterly quotations might furnish instructive results, and present a tempting opportunity for those who may be able to give the investigation the weary labor which it would entail.

After the first years of the period of inflation, when the movement of prices became less irregular and fluctuations in the gold premium less abrupt, the January index number and the specie premium may be compared with better promise of significant results. And then the movement is certainly striking. The decline in the gold premium is more rapid than the decline in general prices. The real depreciation of the paper, in other words, was greater than its discount in terms of gold would indicate. This is more particularly the case in the years immediately after the war,—in 1866-68, and again in the years immediately before and after the great crisis of 1873,—i. e. in 1871-74. After the war the gold premium fell sharply and suddenly from a range of 200 and over to one of 140 or thereabouts; yet prices fell much more gradually and more slowly. Again, in the years after 1870 the gold premium ranged between 110 and 120, and in general tended to fall. The January quotations in this period are a fair indication of the range of the premium throughout the year. Yet in '70-'73, prices showed a tendency to rise rather than to fall, and the real depreciation of the currency was greater than the specie premium would indicate. After 1873, prices fell sharply and continually; the gold premium fell much more slowly. The country was nearer a specie basis in 1873, so far as the gold premium went, than it was so far as the general range of prices went. The final and real readjustment to a specie basis was accomplished rather by the relentless fall in prices and in wages between 1873 and 1879, than by the more obvious, but less incisive, decline in the gold premium.

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## STATE SOVEREIGNTY BEFORE 1789.

**T**HIRTY years or more ago no position concerning the constitutional relations of the States to the United States was perhaps more fully established or more frequently affirmed, both North and South, than that of the original political sovereignty of the States which in 1789 formed the Union. It was not merely a dogma but a postulate of our constitutional law. Along with this went the doctrine of the Federalists of our early political history, and of the Unionists of all our political history, that this original sovereignty of the States was limited or abridged by the force and meaning of the Federal Constitution,—limited and abridged to such an extent as to create a new nation, having sovereignty indeed, but a sovereignty in turn strictly limited by the express and implied grants of power in the Federal Constitution. Two sovereignties were thus held to co-exist under our Federal system—a national sovereignty, originally created and limited by the Federal Constitution, and a State sovereignty, originally possessed by each State, but by the adoption of the Federal Constitution in 1789 limited or abridged to the exact extent, and no more, of the powers granted to the United States by the Federal Constitution. The original sovereignty of the States was a concession alike of Calhoun and of Webster; of Jefferson and Madison, as well as of Hamilton. Jefferson, when toying in 1798 with the demon of nullification in the Virginia and Kentucky Resolutions, and Calhoun and his school in their dogmas of secession and constitutional separation, laid the foundation of their arguments on the doctrine of the complete sovereignty of the States prior to 1789; reaching the conclusion that as once possessors of such original sovereignty, the States had still the right under the constitution to withdraw from the Union or to resume the sovereignty and powers conveyed away by the adoption of the constitution. Hamilton, Marshall, Webster, and the school of which they were the most illustrious representatives, conceded and asserted

the original sovereignty of the States; but held that the adoption of the constitution created a nation and not a league, a perpetual government and union, not a temporary or dissoluble compact or confederacy; and that, hence, the original sovereignty of the States was by the adoption of the constitution forever thereafter shorn of its completeness, but to the extent only of the powers granted by the constitution to the United States.

Mr. Calhoun's views on this point are found on all hands in his speeches and writings. In his "Discourse on the Constitution and Government of the United States," he says: "That the States when they formed and ratified the constitution were distinct, independent, and sovereign communities has already been established. That the people of the several States acting in their separate, independent, and sovereign character adopted their separate State governments is a fact uncontested and incontestable."<sup>1</sup> In the resolutions introduced by him in the Senate, which led to the great debate of February, 1833, he thus stated his position: '*Resolved*, That the people of the several States composing these United States are united as parties to a constitutional compact, to which the people of each State acceded as a separate and sovereign community.'<sup>2</sup> Again, in his speech in the Senate in reply to Mr. Webster, February 26, 1833, he said: "All acknowledge that previous to the adoption of the constitution the States constituted distinct and independent communities in full possession of their sovereignty."<sup>3</sup>

No better statement of the Union view can perhaps be found than this passage in Mr. Webster's letter of opinion, addressed to Baring Brothers in 1839: "Every State," he says, "is an independent sovereign political community, except in so far as certain powers, which it might otherwise have exercised, have been conferred on a general government, established under a written constitution, and exercising its authority over the people of all the States. This general government is a limited government. Its

<sup>1</sup> Works, vol. i. p. 119.

<sup>2</sup> Id., vol. ii. p. 262.

<sup>3</sup> Id., vol. ii. p. 281, 282.



powers are specific and enumerated. All powers not conferred on it still remain with the States or with the people. The State legislatures, on the other hand, possess all usual and ordinary powers of government, subject to any limitations which may be imposed by their own constitutions, and with the exception, as I have said, of the operation on those powers of the constitution of the United States."<sup>1</sup>

It is the general judgment, we think, of the most competent that some grave excesses of rightful constitutional power marked the great struggle of our Civil War. It is not strange, but only regrettable, that it should have been so. Great interests, the greatest, were at stake; deep passions, the deepest, were aroused; the flames of civil war, fiercer than of foreign, enveloped us all. "The Union must be saved; let it be saved at whatever cost;"—such, one may say, was the national thought. From such a spirit constitutional circumspection was not always to be expected. Some of the excesses in question were temporary in their direct effects; such as the declaration of martial law or the attempt to override the civil authorities, in States not in rebellion; and the suspension of the writ of *habeas corpus* by President Lincoln in 1863. Other excesses were more lasting in their results,—the Legal Tender Acts of 1862 and 1863, for example, which have since steadily poisoned our financial life, and are destined to cast their baleful effects far forward into the future. Not one of these excesses can be fairly said to have been necessary to save the Union or to put down the rebellion. They were the result of alarmed and excited feelings, not unnatural, but not for that reason the less deplorable in their effects. The war ended, and the Union restored, we might well have hoped for soberer views of public duty as well as of constitutional law. In one respect, and that a most important one, our government and Federal system suffered no detriment from or after the war—the substantial relations of the States to the Union. For this great result we are indebted, above all other men, to the late Chief Justice Chase and the late Mr. Justice

<sup>1</sup> Works, vol. vi. p. 537.

Miller; to the former for two opinions in the 7th volume of Wallace's reports,<sup>1</sup> and to the latter for the opinion in the Slaughter House Cases.<sup>2</sup> By these great decisions the balance of our Federal system was preserved against the insidious attacks and specious vagaries of thorough-going doctrinaires and ardent politicians of the era of reconstruction. The nation has yet to know and feel the full measure of our obligations to those great jurists.

Nothing has, however, yet sufficed to lay the spirit aroused by our great struggle, of pushing theories, intended, honestly enough no doubt, to extirpate the seeds of disunion and secession from our constitutional system. Among the notable heresies which have thus sprung up is the doctrine or claim that the States which formed the original Union were never sovereign political communities or governments. This position has been most fully elaborated by the late Professor John Norton Pomeroy in his work on "Constitutional Law." It crops out, too, from time to time, in the less formal or less considered writings of other authors; as in Mr. Fiske's "Civil Government in the United States,"<sup>3</sup> and in the article of Professor Tyler in the February number of this Review.<sup>4</sup>

Professor Pomeroy—whose view on this point occupies over twenty pages of his work—after saying that "three theories in relation to the essential character of the constitution itself, and of the United States as a body-politic have been proposed and advocated by different schools of statesmen and jurists," states the first theory as holding that the nation existed prior to the adoption of the constitution, and was not called into being by that instrument; that the constitution was not the work of the States nor of the people of the States, but of the people of the United States, as a political unit; that the powers of the United States were not delegated to it by the several States, nor by the people of the several States,

<sup>1</sup> *Lane Co. v. Oregon*, 7 Wall., p. 71. *Texas v. White*, *Idem.*, 700.

<sup>2</sup> 16 Wall., 36.

<sup>3</sup> P. xxviii and pp. 204, 205.

<sup>4</sup> Article—"A New Study of Patrick Henry," p. 345.

but by the people of the United States; that, as a consequence, the powers not granted were not reserved by or to the States, but were reserved by the people of the United States to themselves or to the several States. This theory—which he mistakenly calls the view, in substance, of Hamilton, Jay, Marshall, Story, and Webster—he adopts, and elaborately sets forth and defends. He declares that this theory rests on “plain, historical facts.” Prior to the Revolution, he says, each colony was simply a part of the British empire; by their united action as colonies in resistance to Great Britain, they became a nation, and, prior to the Declaration of Independence, all their united acts were national acts; by the Declaration of Independence, they did not declare the separate independence of each State, but the independence of the American nation. This conclusion he regards as supported by the language of the Declaration itself. The sovereignty thus asserted was the sovereignty, not of the individual States, but of the nation or political unit then called the United Colonies. “There never was,” he remarks, “in fact, a moment’s interval when the several States were each independent and sovereign. While colonies they unitedly resisted, revolted, and declared that combined political society independent. The blow which severed the connection with the British empire did not leave a disintegrated mass made up of thirteen communities now independent; it left an united mass, a political unity, a nation possessing the high attributes of sovereignty which it had just exercised. The United States was then a fact, and no power but that which called it into being—the People—is competent to secure the national destruction.”

Professor Pomeroy regards this view as vital, “the key to the whole position.” “Grant,” he says, “that in the beginning the several States were, in any true sense, independent sovereignties, and I see no escape from the extreme positions reached by Mr. Calhoun.”

It may be at once admitted that the question here raised is chiefly an historical question of fact. The colonies were undoubtedly prior to 1776 parts of the British empire. As such they could have no separate sovereignty or political

independence. It is true also that the colonies had acted together in all the stages of their resistance to Great Britain before the Revolution; but it is quite impossible to point to any fact—nor does Professor Pomeroy attempt to point to any,—except the general fact of their combined action in forcible resistance to the mother country, which evidences an organic unity. There was in this nothing more than simple association as colonies, each colony having its separate charter, adopting its separate constitution, maintaining its separate government and its separate colonial or State organization for executive, judicial, and legislative purposes. It would seem that no legal or political results could have come from such association that would not result from the similar association of any confessedly independent nations for common military or defensive purposes.

The colonies acted together in making the Declaration of Independence, but what is the true significance of that act? In express terms it was there declared "that these United Colonies are, and of right ought to be, free and independent STATES." How is it possible to escape the force of these terms? If those who made the declaration had intended to declare the American nation—which Professor Pomeroy says then existed—free and independent, they would surely have used words fit to express the idea or intention. They would not have described the American nation as "free and independent States."

During the entire period of the war the individual States maintained their separate State governments, adopted separate State constitutions, and in all ways remained as distinct as they had been at any previous time. This is undeniable; and when peace came, by the terms of both the preliminary treaty of November 30, 1782, and of the definitive treaty of Paris, September 3, 1783, it was declared, in Article I of the former and Article V of the latter treaty, as follows: "His Britannic Majesty acknowledges the said United States of America, viz: New Hampshire, Massachusetts's Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and



Georgia, to be free, sovereign and independent STATES."—both treaties having been negotiated on the part of the United States by John Adams, Benjamin Franklin, John Jay, and Henry Laurens. Not merely was the country officially known as the United States of America declared "free, sovereign and independent," as Professor Tyler erroneously states,<sup>1</sup> but "free, sovereign and independent States." Can there be doubt that this language conveys the meaning that each of the States composing the political combination with which Great Britain was then dealing was acknowledged to be a free, sovereign, and independent State? What mind, uninfluenced by a theory or prepossession, looking at the situation or at the language of the parties to this treaty, would ever reach the conclusion that it was the nation, and not the individual States, which was here acknowledged to be free, sovereign, and independent?

While the War of the Revolution was progressing, November, 1777, the Continental Congress, sitting at Yorktown, submitted to the States, "Articles of confederation and perpetual union." All the States ratified these articles. They remained the only expression of the relations of the States to a general government till the adoption of the Federal Constitution in 1789. These articles are expressly entitled "Articles of confederation and perpetual union *between the States*." In the forefront of these articles stood the declaration,—“Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled.” Here, in 1777, *ex industria* was set forth and guarded, in title and body of these articles, the sovereignty, freedom, and independence of each State. It is little better than trifling to say of this declaration that it means only that each State retained such sovereignty, freedom and independence as it then had, and that such sovereignty, freedom and independence were only *sub modo*, that is, that they had been merged by the antecedent action of each colony and State, in the

<sup>1</sup> Article, *supra*, p. 352.

nation called the United States of America. It is plain beyond argument, as plain as an historical fact is ever apt to be, that the States or colonies which became parties to the articles of confederation from 1777 to 1789 regarded themselves, as they proclaimed themselves, sovereign, free, and independent. Were they self-deceived? Has it since turned out that, while they fancied themselves each sovereign and independent, they were in reality subordinate and integral parts only of a nation which had existed, according to Professor Pomeroy, from the first appointment of delegates to a general congress in 1774?<sup>1</sup>

The character of the confederation of 1777 in contrast to that of the union of 1789 has never been doubtful. Indeed, Professor Pomeroy holds that the confederation was a mere league. "It was," he says, "rather in its nature a treaty, to be observed as long as the contracting powers saw fit to yield to its requirements, and no farther." And who were the contracting powers? They were no other than the thirteen original States, acting expressly as States, the delegates all signing the articles in terms *for* their respective States and each State separately acceding to them. "The formative elements," says Professor Pomeroy again, "which were combined in this political structure were not individuals, but were the sovereign, independent States, united in a friendly league for their mutual defense and welfare; and all powers not expressly delegated to the Congress were declared to be reserved by the several States to themselves."<sup>2</sup> But he regards all this as a mere temporary provision, "a tacit abandonment of the national idea." Bancroft says on this point, "The articles of confederation endeavored to reconcile a partial sovereignty in the Union with complete sovereignty in the States, to subvert a mathematical axiom by taking away a part and letting the whole remain."

The case may, then, be stated thus: Prior to the Revolution, the colonies had acted together in matters of common

<sup>1</sup> Constitutional Law, pp. 35, 38.

<sup>2</sup> *Idem*, p. 48.

<sup>3</sup> Constitutional Law, p. 48.

concern, but without any formal union or merger of whatever sovereignty or independence each State may have then possessed; by the declaration of independence they in express terms declared the colonies, which had before acted together in the great matter of resistance to Great Britain, "free and independent States;" by the treaty of peace with Great Britain they were acknowledged to be "free, sovereign, and independent States"; by the articles of confederation of 1777, which were in force till 1789, the relations established and the duties undertaken were expressly "between the States," and each State in terms "retained its sovereignty, freedom, and independence," so far as the same was not expressly delegated to the Congress.

Another historical and judicial incident has value and authority here. In June, 1776, the convention of Virginia formally declared that Virginia was a "free, sovereign and independent State." The government set up, and the constitution adopted by this convention remained in force throughout our revolutionary war. In 1777, the legislature of Virginia passed an act providing that all debts due by citizens of Virginia to British subjects might be paid into the treasury of the State, and that the receipt of the State should be a discharge of the debt. After the conclusion of peace, suit was brought by a British subject against citizens of Virginia on their bond given before 1777 to secure a debt. The defendants, citizens of Virginia, having in 1778 paid the amount of their debt into the treasury of the State, set up as their defense to the suit the act of 1777, and by its force claimed release from their indebtedness. The lower court decided the suit in favor of the defendants, and an appeal was taken to the Supreme Court of the United States. The case was decided in 1794, and the proceedings on appeal are reported under the title of *Ware v. Hylton*, 3 Dallas, 199. John Marshall, afterwards Chief Justice, was of counsel for the citizens of Virginia, and the case was presented to the court with great elaboration and ability. The court, as the report runs, "after great consideration, delivered their opinions, *seriatim*," Mr. Justice Chase delivering the first and leading opinion. Mr. Marshall in his argument said—and it

appears to have been strictly true—"It has been conceded, that independent nations have, in general, the right of confiscation; and that Virginia, at the time of passing her law, was an independent nation." Judge Chase, in his opinion, said: "In June, 1776, the convention of Virginia formally declared, that Virginia was a free and independent State; and on the 4th of July, 1776, the United States, in Congress assembled, declared the thirteen United Colonies free and independent States; and that, as such, they had full power to levy war, conclude peace, etc. I consider this a declaration, *not that the united colonies jointly, in a collective capacity, were independent States, etc., but that each of them was a sovereign and independent State*, that is, that each of them had a right to govern itself by its own authority and its own laws, without any control from any other power upon earth."

The historical evidence now examined seems to warrant no other conclusion than that before 1789, and at the time of the adoption of the Federal Constitution, the several States were, in strictness of speech and of legal power and fact, sovereign and independent. Each of them answered fully, in a legal and political sense, to Professor Pomeroy's own excellent definition of a nation,—*"an independent, separate, political society, with its own organization and government, possessing in itself inherent and absolute powers of legislation."*

Professor Pomeroy, at a later point in his work,<sup>1</sup> attempts to support his thesis by a reference to the power of amendment of the Federal Constitution contained in Article V. of the amendments. He says: "The constitution in this article recognizes the fact that States may be brought under the sanction and obligation of an amendment, without their assent, and even with their decided opposition; and thus another is added to the many features of our organic law, which are utterly inconsistent with any assumed sovereignty in the separate commonwealths. For, granting the correctness of the theory that the several States were once political sovereignties, and that each surrendered a portion of its

<sup>1</sup> p. 210.<sup>2</sup> p. 324.<sup>3</sup> Constitutional Law, pp. 72-75.



inherent powers to the general government, such surrender would go no farther than the express provisions of the constitution; as to all other matters not reached by that instrument, their sovereignty would remain intact. By this theory, then, it is entirely impossible that three-fourths of the States can compel the remaining one-fourth to give up a further portion of their attributes, contrary to their will." Put in its briefest form, the argument appears to be, that inasmuch as the power of amendment makes it possible for three-fourths of the States acting in the prescribed way to take away any of the remaining powers of the States against their will, the States have nothing under the constitution, and never had, which can be called sovereignty. Elsewhere the author declares that a nation, or a political, sovereign community, has no capacity to surrender or "essentially limit" its sovereignty, and that consequently there was and could be no surrender by the States of any part of their sovereignty by the adoption of the constitution.<sup>1</sup> The relief from this dilemma he finds in the denial of any sovereignty to be surrendered by the States.

If the power of amendment, whereby three-fourths of the States may abridge or destroy the powers of the other one-fourth against their will and in spite of their opposition, be proof of the want of all sovereignty in the States, the argument simply proves too much for those who use it; for the power of amendment might be used to abridge the rights and powers of the United States as well as of the States; and if a sovereignty thus held at the will of another is no sovereignty, then the United States is not sovereign,—the very result which Professor Pomeroy's extraordinary arguments are meant to make impossible!

Another historical fact seems to stand in the way of Professor Pomeroy's theory. The Federal Constitution went into effect, according to its own prescription, on its ratification by the conventions of nine States, March 4, 1789. Ten States only had then ratified it. North Carolina did not ratify it till November, 1789, and Rhode Island not till May, 1790. If, now, the States had no sovereignty before the

<sup>1</sup> Constitutional Law, p. 39.

adoption of the constitution, March, 1789, and if the Confederation expired at that date, what was the political situation of these two States after March 4, 1789, and before their ratification of the constitution? If they were not sovereign, separate, and independent States, what were they? They were not parts or dependencies of Great Britain; they were not members of the confederacy of 1777, for that had expired; they certainly were not members or parts of the new Federal Union. It is obvious they were separate, sovereign States,—as much so, practically and theoretically, as France or Spain. It is impossible, however, to regard the date of the assent of these two States to the constitution as distinguishing them in this respect, on legal or national grounds, from the States which assented earlier. The fact is only valuable for throwing into higher relief the absolute legal and political sovereignty of all the States at the time of their adoption of the constitution.

The claim that "a sovereign State cannot bind itself by any treaty or compact by which its sovereignty is wholly or substantially surrendered or lessened," calls for but little notice. A close examination of the authorities cited to establish this position does not disclose any real support for it.<sup>1</sup> Even the quotation made from Martens—"For moral beings as well as for individuals, there can be no obligatory promise, when that promise is of suicide,"—does not state a proposition which bears on the present question. It may be safely said that nowhere by any writer of authority has the position here asserted been laid down. That if the government or public authorities of a nation bargain away the national sovereignty, either in whole or in part, the people of the nation may refuse to ratify the bargain, may even revolt and forcibly resist the enforcement of the bargain, is not questioned: but that a nation cannot through proper agencies—the government or the people, one or both—lay down its sovereignty, in part or in whole, temporarily or perpetually, cannot be maintained.

Mr. Fiske's "*Civil Government in the United States*," has been referred to as affected by the doctrine which is

<sup>1</sup> P. 39. *Note*.

here discussed. In the "Table of Contents" of this work it is asserted, in terms, that "The several States were never at any time sovereign States," with a reference to a succeeding page of the text. Turning to that page, the following language is found: "There never was a time when any of the original States exercised singly the full powers of sovereignty. Not one of them was ever a small state like Denmark or Portugal."

It is plain that the latter quotation does not support the former. In fact, it might be admitted that no State has ever exercised its full original sovereignty for any considerable or great length of time, and that in this sense the States of our Union do not resemble Denmark or Portugal; but that Rhode Island and North Carolina did hold and exercise sovereignty in 1789—the only sovereignty that then existed in those States—and that each and all of the original States might have done the same, if they had so chosen, is a plain historical fact. Whether or not Rhode Island and North Carolina in 1789 "exercised singly the *full* powers of sovereignty," is not important here, so long as they possessed and could have exercised "the full powers of sovereignty." They did, in point of fact, exercise during this interval all the powers of sovereignty which their circumstances required or made desirable. Every civil and military function, every power of government, every attribute of sovereignty, pertaining to society or government, in Rhode Island from March 4, 1789, to May 29, 1790, and in North Carolina from March 4, to November 21, 1789, was possessed and exercised by the political communities called by the names of those States. This is sovereignty, full, complete sovereignty; as full and complete as that possessed and exercised by Denmark or Portugal. The brevity of the duration of this sovereignty cannot affect the fact of its existence nor the completeness of its enjoyment.

Professor Pomeroy quotes in a foot-note<sup>1</sup> from a letter of Chief Justice Chase in which he writes to the author: "You have doubtless seen some traces of *your own* thinking in the late judgment of the Supreme Court in the case of *Texas v.*

<sup>1</sup> Constitutional Law, p. 31.



*White.*" It would seem that the author regarded this expression as supporting his own theory of no original sovereignty in the States. The decision of *Texas v. White*, however, lends no support whatever to such a theory. It is rather in the respect here in question a masterly, rapid, and perfectly accurate sketch of the procession of events which led to the adoption of the constitution; in which it is truly said, but in direct contradiction of the theory of Professor Pomeroy, that, "The union of the States was never a purely artificial and arbitrary relation. It began among the colonies. It was confirmed and strengthened by the necessities of the war, and received definite form and character and sanction from the articles of confederation. By these the union was solemnly declared to be perpetual. . . . But the perpetuity and indissolubility of the union by no means imply the loss of distinct and individual existence or of the right of self-government by the States. . . . Not only, therefore, can there be no loss of separate and independent autonomy to the States, through their union under the constitution, but it may not unreasonably be said that the preservation of the States and the maintenance of their governments are as much within the design and care of the constitution as the preservation of the union and the maintenance of the national government. The constitution in all its provisions looks to an indestructible union composed of indestructible States." With still greater emphasis, the Chief Justice in *Lane County v. Oregon*, said: "The people of the United States constitute one nation under one government, and this government, within the scope of the powers with which it is invested, is supreme. On the other hand, the people of each state compose a state having its own government and endowed with all *the functions essential to separate and independent existence*. The States disunited might continue to exist. Without the States in union there could be no such political body as the United States. Both the States and the United States existed before the Constitution." These golden words and phrases set in its true light the character of the States as original political communities, "endowed with all the functions essential to sep-



arate and independent existence"—an existence older than that of the United States, independent of the existence of the United States, and capable of surviving the destruction of the United States.

Professor Pomeroy, as has been observed, regards his theory as essential to the forensic defence of the integrity and perpetuity of the Union. "The extreme opponents of nationality" he says, "reason with irresistible logic from the premises assumed by them—the original sovereignty of the States." If the question be one of historical fact, it must be settled, as our author himself remarks, "as any other matter of history." The historical evidences seem to have settled the question; but it must not be conceded that any the least detriment or weakness to the defences of the Union can come from the conclusion here reached. Webster's, Marshall's, Madison's, Hamilton's, Chase's great defences of the Union—the finest exhibitions of forensic and judicial power and grasp which our country or modern times have witnessed—are all-sufficient now, as they have been till now. No theories which are not according to historical facts can give strength to any cause. The Union and the Constitution rest upon impregnable foundations—foundations, forensically, nowhere else so powerfully asserted and built up as in Webster's speeches in the Senate from 1830 to 1834; judicially, nowhere else so convincingly expounded and settled as in Marshall's judgments from 1801 to 1835. Happy the nation, fortunate the people, who can point to such men and to such intellectual monuments, and say, "These are my defenders; these are my defences!"

It would have been easy to have made citations of opinions from all our most important legal text-writers, jurists and constitutional lawyers. Mr. Webster once criticised this use of the word by asking, "And what, Sir, is an *unconstitutional* lawyer?"—to establish the proposition of the absolute political and legal sovereignty of the States before the adoption of the Federal Constitution, but since the one eminent authority who has assailed it, has chosen to put his arguments on grounds of historical fact, it has seemed wise to offer this brief discussion of the question on the same

grounds. The great ability of Professor Pomeroy, the high value set upon his writings by all competent lawyers and scholars—writings marked by unusual keenness of analysis and clearness of method,—as well as the importance of the results involved in the question here considered, may well warrant the present article.

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## THE SCOPE OF POLITICAL ECONOMY.

IT has been customary to treat the scope and method of political economy as parts of one investigation. In this way the method of the science has received the conscious attention, while its scope gets but a few passing remarks. The student fails to realize that the scope of a science is really as fundamental a problem as its method, and that the latter depends on the former for many important premises. Customs and habits of thought, inherited from the past, lead us to group particular discussions together, calling the arbitrary line that separates them from other groups of problems the boundary of a science. With this limitary line once fixed by the arbitrary notions perhaps of some great man or group of men, succeeding writers accept the prescribed limits without question, thus keeping the content of the science within such narrow limits that both its method and the character of its doctrine are pre-determined.

The boundary lines between the various social sciences have not been fixed by any systematic study of their relations nor by any logical order of sequence. They have their place in history because of the practical interest which social reformers have had in them as means of securing progress, or at least as a means of maintaining the existing social order against retrogression or decay. Each succeeding social science has had the same aim—to give new sanctions to the progressive forces of society. Each science, however, has succeeded in conquering but a section of the general field of social science, and this section it holds against its newer rivals. Religion, morality, natural law, politics, and economics have arisen to answer the one supreme question: What is the binding authority to which appeal can be made and for which men will have respect? For a time, the potent force that held men and nations in peaceful relations was religion. When its authority began to decline, an appeal was made to moral principles, in the hope that they would increase the respect for law, and thus advance the interests

of social progress. When this hope failed, resort was had to natural law, to politics, and finally to economics; and from each of these sciences laws and practical rules were secured that have helped to resist the forces that tended to dissolve society, and in many cases have been real causes of social progress.

But these efforts have not been well coördinated. On the contrary, each movement has been independent, and, for a time at least, has attempted to cover the whole field of social reform; while between each group of workers there has been usually a spirit of opposition, due to differences in the instincts and motives which have prompted them to action. Since the time of Malthus there has been an open war between the economists and the believers in moral and political reform, while the aims and plans of these moral and political reformers are usually at variance; even religion and morality are too often in conflict, as is shown by the causes which lead to the death of Socrates and the silencing of Kant. Under these circumstances there could hardly fail to be a conflict as to the scope of each of the social sciences. Each science has seized all the ground it could, and has spent more energy in defending its title to what it has, and its claims to what it has not, than in utilizing the resources that lie within its own undisputed realm.

The history of economic theory shows most clearly the effects of this conflict regarding the scope of the science. As it was the latest of the sciences to appear, it found its rivals well fortified in all the regions they cared to occupy. The phenomena of wealth had been neglected because of the antipathy that social reformers had to wealth getting, which they looked upon as a source of evil. Therefore, it was a sort of no man's land, which fell to the possession of the economists. It seemed to be a barren region not worthy of occupation, and yet, when developed through the genius of the Physiocrats and Adam Smith, it proved to be one of the richest fields of investigation, and, at the same time, a potent cause of social progress.

The peculiarities of the present position of economics as a science did not become manifest until the beginning of this



century, when Malthus and Bentham began their work. Up to this time social reform had been a prominent part of political economy. Everywhere Adam Smith is filled with the spirit of progress, and it is plain that he hoped for this progress largely through an appeal to economic motives. The results of the French Revolution changed the party lines entirely. The reaction against its outrages created an intense conservative feeling in all social matters. It is well known that the essay of Malthus on the Principle of Population grew out of a discussion on the general question of the improvement of society. His first essay on the theory of rent was prompted by the desire to defend the income of the landlord class. The law of diminishing returns was also a result of the same controversy, and soon became a leading argument for those who doubted the possibility of an upward movement of all parts of society. And the theory of capital became a weapon in the hands of the conservatives. The proposition that industry is limited by capital was used to prevent the government from furnishing the means to aid new efforts for social progress, while the wage fund theory seemed to justify the refusal of the better classes to participate in any endeavors to ameliorate the condition of the lower classes. In this way, the character of the doctrines to which the name economic was given became intensely conservative. In fact, no better bulwark could have been devised to resist the claims of those who desired social reform.

It would not be fair, however, to infer that the economists were unprogressive men. On the contrary, they were in many respects the most uncompromising radicals. The school of Bentham is practically the same as the school of Ricardo. The unity of the two schools is not merely in the persons who formed them, but also in the means and arguments used to support their doctrines. The ground work of the utilitarianism of Bentham and of the economics of Ricardo did not differ, the same calculus of pleasures and pains lay at the basis of their arguments. But the one became a powerful means of accomplishing certain reforms, for which the English people were ripe, while the other became an even more powerful agent to resist the social reforms

coming from France, to which the instincts and inclinations of the English people were opposed. Thus the progressive political economy of Adam Smith became an obstacle to progress, while the problems of progress were separated from those of political economy, and became associated under the newer term of Utilitarianism.

This artificial destruction, due to the practical condition of affairs in England during the Napoleonic wars, separated the static parts of economic doctrine from the progressive or dynamic. The term economic was thus artificially restricted to static economics, and dynamic economics became a part of ethics. Two sciences were made in a field where there should have been only one. The principle of the greatest happiness for the greater number is the same as the principle of utility in economics. They are both the expression of the same thought in two different classes of problems. Economics was confined to the production of goods—to the increase of material wealth. The greatest happiness principle was used by Bentham solely as a rule for the distribution of utilities, or, to put it negatively, for preventing the decrease of utilities. No theory based on this principle was used to show how utilities could be increased. The maxim that each person counts for one, and no person for more than one, is clearly the most potent part of the greatest happiness principle, and this is clearly a principle of distribution. In legislation, Bentham assumed that the only function of government was to prevent the waste or vicious destruction of utilities. Criminal laws should, therefore, be devices to protect the public from a loss of their utilities with as small a diminution of the utilities of the criminal class as would be consistent with public welfare.

There is another way in which the causes may be illustrated that separated the static from the dynamic problems of economics. Bentham and his school were much opposed to any argument that rested on an appeal to history, customs, or habits. They were, therefore, cut off from the usual arguments by which either conservative action was supported, or progressive action demanded. But, like all mortals, they were conservative in some directions, and radical in others.

They found a justification for their conservative ideas in a static concept of economics which dealt merely with the production of material wealth. By uniting social progress with ethics, they were able to strip ethics of the sanctions inherited from the past, and yet to create in the greatest happiness principle a strong motive force for social reform.

This line of division, by which ethics became a theory of social progress, while economics was reduced to a theory of the production of material goods, was strengthened by the popular belief that the pursuit of wealth was the source of moral and political degeneration. Economists were not to be blamed for not seeing the economic causes of social progress, at a time when money getting was supposed to be the root of all evil. They assumed, as did every one else, that the motive power of progress lay in other fields than economics—in ethics and religion.

Before the economic causes of progress could be clearly seen, the concrete concept of material wealth, capable merely of an increase of quantity, must be displaced by the broader concept of utility, the units of which are not objective, but subjective. Economists were, however, not ready for this step. They readily assented—yes even demanded—that all problems of social reform should be handed over to ethics, so that economics could be made a positive science after the model of the physical sciences. Problems relating to what is, it was claimed with apparently many good reasons, should be separated from problems relating to what ought to be. Yet, if we admit that these reasons are good, it has the very detrimental effect of separating the static parts of economic theory from the dynamic, and in this way the former have had their development retarded, while the latter have been put under conditions where their scientific study is impossible. For their study, it is true that another department, called "Social Philosophy," has been devised—a science that supposes that problems of social progress are more closely allied to politics, ethics, law, and religion than they are to economics. But, as yet, no good work has been done in this field, because of the complicated nature of the phenomena, when studied in these relations. It is mainly used as



a logical device to outwit opponents, by making it the dumping ground for economic problems which cannot be handled by economists, while the scope of their science has its present artificial limits.

But "Social Philosophy" has been of some use in bringing into closer relation to economic discussions the social problems that Bentham and his school regarded as problems of progress and not as problems of wealth—in other words, problems that were discussed in relation to the increase in the general welfare of the community rather than in relation to the increase of wealth. Mill, for example, did much to broaden the scope of economic discussion, by using in his "Political Economy" certain principles taken from "Social Philosophy." Yet, it seems to me that the title of his book is misleading, because of a wrong conception of the scope of the science. He calls the book: *Principles of Political Economy with some of their Applications to Social Philosophy*. The reader would infer from this title that he meant to apply economic principles to social philosophy. In reality, however, he does a far different thing. He correlates the principles of political economy with certain principles taken from social philosophy. He thus introduces a much wider range of ideas and topics, but does not in reality assume a more practical tone, except in so far as matters of social progress are more practical than those of social statics. He comes nearer to the life of the people, but not more into the details of that life.

I cannot see how Mill's discussions relating to social philosophy differ from his economic discussions, except that in the first case he measures subjectively in units of utility what in the second case he measures objectively in units of wealth. He is undoubtedly right in assuming that practical measures should not be judged solely by their effects on the quantity of material wealth. But I do not see how he departs from purely economic considerations in rejecting this standard. His error is in limiting economic science to such a narrow field, thus creating the need of a science to treat of problems of social progress. This separation is due to the artificial conditions of the period of Bentham and



Ricardo, and, by ignoring it, Mill helped to restore that unity which social problems had in the time of Adam Smith, before utilitarian and economic considerations became parts of independent sciences.

The blending of Utilitarianism and economics into one science, however, cannot become complete, while wealth is measured solely in units of concrete material goods, and not in units of satisfaction. A subjective standard must displace the objective standard, which makes each unit of commodity of equal importance with others of the same commodity. In the production of wealth, this objective standard is practically correct, since the producer thinks merely of the quantity he produces and of its value per unit. The law of indifference makes him regard the loss or gain of any particular unit of equal importance with that of any other unit. It is only in the theory of the consumption of wealth that the relative importance of different units of the same commodity becomes apparent. To the consumer, each additional increment of a commodity in its consumption yields a decreasing satisfaction, and upon this fact the law of marginal utility is based. The sweeping effects of the perception of this law upon economic theory is not, however, of so much interest in this connection as is the change that it has made in our concept of wealth and in the methods of its measurement. The distinction between material and non-material wealth has lost its importance. We join efforts directly with satisfactions, and think but little of the concrete forms in which our efforts are embodied. Services and goods alike are to the consumer means of securing satisfaction, having their value measured by this satisfaction and not by the power to accumulate or to appropriate them. The distinction between productive and unproductive wealth is of value to the producer, who desires to save for others to consume, but not to the real consumer. In this way, the concept of material wealth as a concrete material fund, upon which production depended, and through which prosperity was measured, was displaced, and henceforth wealth must be measured, not by its quantity alone but, like any other utility, by the units of satisfaction it affords.

The development of the theory of consumption furnishes also the means for enlarging the scope of economics so as to include a theory of social progress. The first general law of consumption is that of marginal utility, resulting from the decreasing satisfaction that an increasing quantity of any commodity will give. The second law is that each consumer tends to distribute his consumption among the various articles at his disposal, so that the marginal utility of each article will be the same for all articles. From the action of this law we get the concept of a margin of consumption, which falls or rises as the supply of goods becomes more or less abundant. The third law is that the fall in the margin of consumption can be prevented by an increase in the variety of consumption. When more commodities are used, and less of a kind, the subjective value of the marginal increment of each commodity rises. Three increments of four kinds give more pleasure, and have a higher margin of consumption as a result, than do four increments of three kinds. The fourth law is that the margin of consumption is raised through harmonious consumption. There is a tendency to unite goods that are harmonious complements, from which the total utility is much greater than it would be if each part was consumed in isolation, or with other goods with which its consumption was less harmonious.

It should be noticed that the first two laws are static. They produce no change in the man nor in society; they contain no element of social progress. It is otherwise with results of the last two laws. They modify the conduct of each individual and thus influence society as a whole. The gradual increase in the variety of consumption, and the increase in the number and size of the complements in consumption, affect the very structure of society, continually creating new motives for social progress. *The essence of social progress lies not in the increase of material wealth but in a rise of the margin of consumption.*<sup>1</sup> Endeavors to raise the margin of consumption also bring men into other relations to one another than do efforts to increase the quantity of

<sup>1</sup> See Patten, *The Economic Causes of Moral Progress*. *Annals of the American Academy of Political and Social Science*, Sept., 1892.

wealth. The increase of wealth demands a merely negative attitude. Men must be at peace with one another. The *laissez faire* policy must be supreme. On the other hand, endeavors to raise the margin of consumption demand that the instincts, habits, and education of all the people should be the same. Social feelings arise which insist that every individual make his consumption conform to the best interests of society. If a person misuses his productive power, the evils fall mainly upon himself. But, where a consumer misuses his wealth in consumption, the evils fall primarily on society, and he suffers merely as a member of the society he has injured. An exclusive, unsocial form of consumption may add at times to the pleasure of the individual consumer, but it takes much more from the surplus of society than he can gain by his unsocial action. Purely economic considerations create a standard of consumption, the violation of which on the part of the individuals lowers the margin of consumption, creating evils as great as those flowing from a reduction of saving or from a decline in intelligence and skill. Self-interest prompts men not only to create wealth, but to enter those social relations in which the marginal utility of this wealth will be the highest. All desires, therefore, are not equally legitimate, even when measured by an economic standard, and the principles of utilitarianism become incorporated in economics. If it is strictly economic to strive to increase the quantity of material wealth, it is also strictly economic to strive to prevent the fall in the margin of consumption through a greater variety or through larger complements of goods. Both actions have the same end—the increase of utility. The same motive that would cause a man to produce more goods would lead him to increase the variety and enlarge the size of the complements in consumption. If a man by self-interest alone would produce a new article from which he obtains six units of pleasure, self-interest will also prompt him to a second action, if the increasing of the variety of his consumption will also add six units to his pleasures. In both cases predictions can be made. The social changes resulting from the cheapening of sugar, for example, are as certain



as are those which follow the practical use of electricity. The only difference seems to be that, in production, the results of such changes show themselves more quickly, because production is so often under the control of a few intelligent men, while changes in consumption involve action on the part of the great mass of the people.

There is another effect of viewing wealth as units of satisfaction, instead of as units of commodity, that should be noticed. The utility of an article may be of such a character that it cannot be measured. The first increments of many commodities are necessary to life, and their utility cannot be measured by the amount of pleasure which their consumption directly yields. Bread and water in a desert or a boat at sea are examples of such utilities. As soon, however, as the supply increases beyond the point of absolute necessity, the utility of any additional increment is measured by the addition which it makes to the welfare of the consumer. The first class of utilities are absolute utilities. They cannot be replaced nor added together to make a whole. The second are positive utilities. They can be measured and are capable of addition. And it is only in them that social progress can be measured.

It is necessary to assume the absolute utilities as a constant factor, when comparing two stages of civilization, and then to measure their merits by the difference in the sums of the positive utilities which are parts of each of the two stages. Thus if one stage gives A (absolute utilities) + 6 units + 4 units + 10 units of positive pleasure, while another stage gives A + 7 units + 3 units + 8 units + 5 units of pleasure, it is assumed that the second stage is better than the first. No direct comparison, however, of those two A's is made. They must be assumed to be the same, if we are to reason about the relative merits of the two stages of civilization.

The same limitation holds true of utilitarianism, both in the field of morals and in that of social reform. The sum of pleasures and pains which is measured is not the whole pleasure of living, but the additions to this whole pleasure or subtractions from it which are the effects of particular



acts. Bentham does not recognize the difference between absolute and positive utilities. He ignores the former, or at least measures them only through their effects in increasing the sum of positive utilities. Thus, honesty as a virtue is an absolute utility, incapable of direct measurement. The indirect effects of honesty, however, are positive utilities, for honesty leads to an increase of wealth, and this increase is capable of a positive measurement. In practical problems the older utilitarianism neglected these absolute utilities, and treated only of the gains and losses of utility which resulted from individual acts. The formula for reasoning about these acts is the same as the economic formula for measuring the results of social progress. We have an A or a series of A's in each of the sums compared, and assuming these A's to be the same in both terms of the comparison, the beneficial or detrimental effects of an act can be measured by the change in the sum of positive utilities.

This similarity of the methods of reasoning in economic and utilitarian discussions proves in another way that the two supposed sciences are really one. They are, as has been shown, in reality, the statics and dynamics of the same science, separated from one another by the peculiar condition of English thought in the early part of this century. When the basis of economics is broadened by making the unit of measurement subjective, and the basis of utilitarianism narrowed by separating it from ethics, the unity of the two, both in the method they use, and in the field they occupy, becomes apparent. We may call our science what we will, but there is only one science for measuring the welfare of society and its progress through the gains or losses of those positive utilities which men create or destroy.

The relation of absolute to positive utilities leads readily to the boundary line between economics and the other social sciences. Economics is the science of positive utilities—the realm where no other motives are recognized except those resulting from changes in the amount of our measurable pleasures and pains. If all our actions depended upon judgments reached by reasoning from premise to conclusion, there would be no social science but economics. There

would always be a summing up and comparison of the losses and gains resulting from each act, and the conduct of each individual would depend upon the outcome of this conscious calculation. Such a triumph of the reasoning faculty over human feeling has been looked upon by many as the goal of human progress. Bentham and his school assumed both the possibility and desirability of such a state of society, and believed that the gradual breaking down of customs and habits, in which their age took a prominent part, would lead to a readjustment of our habits of thought upon a purely rational basis. If this had proved true, all social science would be purely utilitarian—a mere calculus of pleasure and pain,—and at the same time economic, because all our measurable pleasures and pains are directly or indirectly due to economic causes.

A better knowledge of psychology has caused a reaction against this ideal of the older utilitarians, and has led to a fuller recognition of the ultimate relation between our feelings and our reasoning faculty. This relation must be discussed from a strictly economic standpoint. Those of our feelings which independently of a conscious calculus of pleasures and pains furnish strong motives to action, are directly associated with the absolute utilities of life. In a mere calculating utilitarianism these utilities are likely to be neglected, or at best measured only by their indirect effects in positive utilities. A multitude of measurable present pleasures will appear greater than an absolute utility, the importance of which lies largely in the future. To remedy this defect in the reasoning process, inseparable associations arise between each absolute utility, and a strong feeling, through which an equilibrium is restored between the motives which induce men to acquire the absolute utilities, and those due to the calculus of pleasures and pains, which relates to positive utilities alone. Or, to describe the mental process more definitely, out of each absolute utility there grows up a corresponding ideal—a mental picture—of a social state where that which is so rare as to be an absolute utility becomes so bountiful as to be a free utility enjoyed by all. Just as poverty-stricken, overworked people think

of a haven of rest where the streets are paved with gold, so do those who appreciate any absolute utility think of conditions where this utility is so plentiful as to be free, forming from them an ideal of how these conditions can be realized.

It is these ideals, and not the absolute utilities themselves, which form the motive power leading us to deviate from the reasoned results of a conscious calculation of pleasures and pains. Any fact associated with an absolute utility brings up an ideal and with the ideal comes a motive for action. When strong, this feeling acts so quickly that a purely utilitarian calculation cannot be made. In this way, a psychological safeguard for the absolute utilities is created, and the dominant present motives are made to correspond more closely to the welfare of the individual than would those arising from a contemplation of the positive utilities which would result from a given action. The scope of the reasoning faculty is limited, but the adjustment of the individual to his whole environment is made more complete.

The other social sciences are dependent upon economics for the causes to which their rise is due. They may be said to treat of the absolute utilities of life and of the resulting ideals and motives for action. Particular economic conditions make certain utilities so rare that their utility becomes absolute, and then ideals, feelings, and motives are formed which are subjects of scientific investigation. Had not early economic conditions made justice and freedom so rare as to become ideals, we should have no science of law or of government, through which we endeavor to realize these ideals. We should only have certain rules of action and certain coöperative schemes, determined by the action of a calculating utilitarianism.

The line between ethics and utilitarianism is determined by the point where the calculation of the positive utilities ends, and action is prompted by feelings and ideals due to the presence of certain utilities which are absolute. They cannot be properly valued in a calculation of positive utilities. A definite feeling is associated with each of the virtues, which is independent of the sum of positive utilities flowing from virtuous action. This feeling is, however, supported

by these positive utilities, and, in respect to origin, they may be said to be the cause. The feeling that honesty is a virtue is not the same in kind and quality with the feeling that "Honesty is the best policy." The latter is merely a summing up of the positive utilities which result from an honest policy. The strength of this feeling depends upon the surplus of pleasures which the honest policy will give above what can be secured by a dishonest policy. There is thus a sum of pleasures to be secured, but as this sum is not recognized as a part of a higher complement of goods, its loss does not affect any of these higher complements out of which flow so many of the more permanent pleasures of life. The mental attitude of the consumer and the character of his feelings will fix the sum of these positive utilities, and determine how honest his policy shall be under each given set of circumstances.

But when a consumer has made honesty an ideal, or, in strictly economic terms, a part of a higher complement of goods, the direct loss of positive utilities is a minor consequence, in comparison with the loss of utility in the higher complement of which honesty is a part. Every thought or action forming part of the higher complement brings up the corresponding ideal, thus making the consumer conscious of the lack of harmony between his dishonest act and the ideal. The loss of positive utility is temporary. The loss due to an act out of harmony with an ideal is repeated whenever the ideal is recalled to mind in connection with any part of the complement of goods out of which it springs. The first loss might, therefore, be called in economic terms a fund of disutility, the second, a flow of disutility.

It will be readily seen from this statement of the differences between economics and the other social sciences, that the boundary between it and them is not constant. The number of absolute utilities varies with the progress of the race, and depends upon its mental, social, and physical environment. The formation of each new complement makes the attainment of a group of goods a requisite to the best utilization of each member of the group. The greater the complement, the more nearly absolute does the demand for each member of



the complement become. The accompanying ideal becomes more manifest with each enlargement of the complement, and with it arises the psychologic motive, displacing the utilitarian calculation which determines the action in less important cases. As action becomes more vital, reasoning is displaced by feeling, which acts more promptly, and is less subject to deception.

Even in fields usually regarded as strictly economic, there are many instances where feelings are so strong that they displace the utilitarian calculation, and thus make the treatment of certain problems analogous to the treatment of problems in the higher social sciences. Capital, for instance, is to many persons more than a possible means of increasing production, whose utility is to be measured by the definite additions it makes to the welfare of its possessor. It is also an ideal which is associated with all economic goods. Capital thus becomes a requisite of production, a something without which life would be unendurable. Feelings, therefore, arise with this ideal of capital as an absolute utility, which determine the action of capitalists in consumption more than the calculation of the positive utilities which result from the use of capital. The long conflicts with poverty which the unfortunate classes in society endure cause them to think of bread not as a given sum of positive utility, but as the staff of life, an absolute utility the loss of which means death. The demand for bread in a social revolution is not, therefore, a demand for positive utilities. The feeling that prompts this action comes from an ideal formed among the unfortunate as to what is the essence of life, and this ideal can be displaced only by changes in their social condition which will take from bread its position as an absolute utility. The right to work as an economic principle is due to an association of work with life. It is similar, in kind, to the association in the mind of the capitalist between capital and living. Work, as an absolute utility, creates in the mind of the workman an ideal of social justice which interferes with the decisions of a conscious reasoning self-interest. In all these cases, and in many more which might be mentioned, the formation of economic ideals creates

new feelings and new motives, which cause the actions of consumers to deviate widely from what the promptings of a purely utilitarian calculation of positive utilities demand.

Mental action is determined by feeling or reasoning. When feelings are the sole guide, the action becomes mechanical, and ceases to be an object of conscious thought. Habits and customs are formed, therefore, which in time become instincts through modifications of the brain structure. These peculiarities of brain structure delay the conscious recognition of other motives, and thus permit the instinct to control the action. When a decision is reached by reasoning, no one motive is strong enough to drive the others from consciousness. The strength of these motives is measured not by a single shock, as when the action is instinctive, but by a series of additions to each motive. Inducement after inducement is added, until there is a recognition of the sum of pleasure which each action offers, and of the net surplus which some one action can furnish. The decision, therefore, depends upon a conscious analysis of the result of each act, and upon the measurement of its effects. When this is done, the action lies wholly in the field of utilitarianism, and the controlling force is self-interest. Psychology and utilitarianism cover between them the whole field of subjective science. The premises of the higher sciences must be either psychological or utilitarian. The peculiar phenomena of these sciences are not due to any new principles, but merely to the blending of the effects of purely psychical forces with those of the conscious measurements of the relative strength of commensurate desires. Politics, ethics, law, etc., depend as sciences upon the relation of feelings and ideas, which have become psychological, to the conscious reasoning about positive utilities, which creates the field of pure utilitarianism.

In one respect, these feelings with which the higher social sciences deal are a return to the standards of the animal nature, because reasoning is displaced by feeling. Animals have a psychology which furnishes the motives for action. But they have no economics. They lack the power consciously to measure and compare positive utilities. Men,

however, have both psychical and utilitarian motives. The one determines the quick, regular, important decisions, and the other the less regular acts, or those where there is a conscious endeavor to increase the adjustment between the individual and the environment. The one is static, and holds the ground once gained through the strong feelings which are created by regular action; the other is dynamic, breaking down old customs and habits, and readjusting them on a more rational basis. Reformers, therefore, always desire to break the crust formed by the static action of the feelings which lie at the basis of the higher social sciences. The cry of "Back to nature" has never meant a real return to an animal state. It really means to get away from actions psychically determined, and back to conscious reasoning; and this would mean a return to pure utilitarianism. The primitive state of man is not, as Hobbes supposed, a state of war, but a state of utilitarianism; that is, a freedom from all bonds but those created by the positive utilities which the individual can consciously measure and compare.

The phenomena with which economics deals may in many respects be compared to that of geology. In the center there is a molten or semi-fluid mass, on the outside a crust binding it in. Now and then the molten mass breaks through this crust. The molten mass is governed by the laws of utilitarianism. The parts are so easily readjusted that their position and relation is determined by a few simple laws. The crust, however, is firm and static. It rests on the molten mass of utilitarianism, and is occasionally remodelled by its upheavals. The phenomena of this crust of habits, feelings, and customs, created by social intercourse, make a field for the higher social sciences. They limit the action of pure utilitarianism, but in turn are often remodelled by changes in the crust due to utilitarian forces.

Reformers always appeal to utilitarianism, because they think that the crust, if remelted and allowed to reform under present influences, would take some shape more in harmony with the needs of the present time. If the old continent were sunk with all its imperfections due to past conditions, and a new continent created in a new location, with another



climate and other natural conditions, the simple play of natural forces would create a new world free from present evils. The action of pure utilitarianism upon a social world, made of new and pliant material, would create an ideal state. Reformers are thus utilitarians by instinct, and trust wholly to its battering rams to break down the walls which support present institutions and their attendant evils. They are willing to remove the crust of the feelings and habits due to the past action of social forces, and trust themselves upon the surface of the molten mass of the interior, with the reasoned results of a calculus of pleasures and pains as their only guide and support.

When it is once recognized that utilitarianism is not ethics, but a part of economics, dealing with the problems of social progress, ethics is limited to a narrower but more clearly defined field, and new boundaries must be set between it and the enlarged science of economics. There is no appeal to ethics so long as strictly utilitarian grounds for action are presented. Any law must be enforced. The only question is, What is the motive which makes the conduct of men conform to the law? It may be a reasoned calculation of pleasures and pains, and then the motive power is self-interest. But the consideration of this problem lies within the field of economics, even though the resulting action leads to social progress, and thus indirectly to moral improvement. We get into ethics, not by insisting on a ground for enforcement, but by insisting upon a particular ground—by appeals to those instinctive feelings we call a conscience and not to self-interest.

The older economists did not discuss the obligation to follow self-interest, because they took it for granted. They assumed that each individual was fully aware of what self-interest demanded, and that he would be impelled to follow this self-interest, if other motives were absent. It is right, as Mill does, to think of mankind as being "impelled" to a given course of action, if they are occupied solely in acquiring and consuming wealth, but it is wrong to overlook the fact that the same motive that leads men to increase material wealth would also lead them to modify their consumption



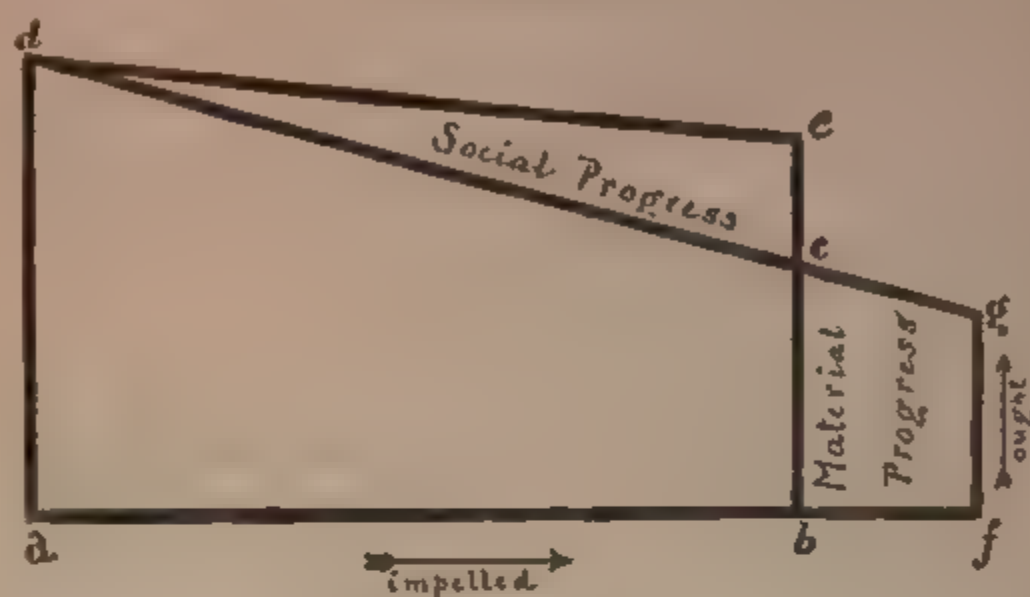
so that the marginal utility of that wealth would be greater. The static man is impelled to increase his material wealth as the only means of increasing his welfare, while the dynamic consumer finds a readier means of increasing his welfare in raising the margin of his consumption by rearranging his goods in new complements. The impelling motive is the same in both cases, and, if economics treats of one class of problems, it treats also of the other. No degree of abstraction can cut out the one class of problems, and leave the other the sole field of economic investigation.

It is merely the force of habit and the result of peculiarities of language to talk of men as being "impelled" to increase wealth, while it is said they "ought" to aid social progress. The "ought" in the latter case implies the same motive power that "impels" men to action in the former. Custom, however, compels us to use two words to express the same idea. The increase of material wealth is associated with the supply of the coarser material wants. So we feel justified in saying men are impelled to eat, to drink, to wear clothing, and to seek shelter. Social progress means the supply of these absolute utilities, but in ways which will increase the positive utility of living. But the force which impels men to these finer forms of consumption does not seem as urgent as that which impels men to seek the absolute utilities of life. Our language shows this distinction plainly. We say that men are impelled to eat, but that they ought to wash the dishes; that they must drink, but they ought to use pure water; that they must have houses, but that they ought to make them pleasant and healthy; and that they must have clothes, but that they ought to keep them clean. We use the word "must," or say men are "impelled" to action, when the results of the action are so obvious that even the most ignorant and stupid cannot mistake them. We use "ought," however, in the more complicated cases where there is a liability to err, or where the psychological tendencies of men are so different that the action in each case depends upon individual peculiarities. The user of the word usually assumes that the person addressed has a lower grade of intelligence, and, hence, in his conscious

calculations he is choosing a less instead of a greater pleasure. "If you had your best interests in mind,"—"if you had calculated more correctly,"—or "if your conduct were more consistent, you would do this." The "ought" in this sense is merely a contraction for a long conditioning clause, which appeals only to the conscious reasoning spirit in men. This failure to calculate rightly is a defect, not in morals, but in intelligence, and the remedy lies in an intellectual education, and not in a moral awakening.

The mild or economic "ought" implies merely consistency. The strong "ought" of morals, however, implies obligation. It presents a picture, an ideal, not a comparative scale of positive utilities. It has its force because strong feelings are aroused by the lack of conformity between the act in question and the ideal, and not because six units of utility are less than eight units. The mild "ought" has a force proportional to the net surplus of the act. The strong "ought," however, has the same force, whenever clearly perceived. It is a psychical reaction and not a conscious comparison. Its force depends upon the psychical causes bringing up the ideal, and not on the net results of a comparison with other possible acts. From this analysis of the meaning of word "ought" it will be seen that the use of the word does not mark the boundary between economics and ethics. The strong "ought" alone appeals to motives within the true realm of ethics. The mild "ought," however, indicates an appeal to the utilitarian calculus of pleasures and pains which lies at the basis of economic reasoning. Its strength depends upon the net surplus of positive utility which the action affords. The impelling motive is the same as that which leads to the production of material wealth. The only difference is that the one measures in subjective units what the other measures in objective units. The first, therefore, measures the dynamic forces of social progress, while the second measures the static forces of material progress. The relation of these two parts of economic theory may be illustrated by the following diagram.

FIGURE I.



Let the quantity of goods produced by a given society be measured by the line  $ab$ , and the utility of each part by the distance between  $ab$  and  $dc$ . The welfare of this society may be increased in two ways. The quantity of goods may be increased by producing  $bf$  more goods, or the utility of what has been produced may be increased by social progress, which will raise the margin of consumption from  $bc$  to  $be$ . In the one case, the increase of utility would be the area  $bfgc$  and, in the other, the area  $dcec$ . The motive in each case would be of the same kind, and if the areas are equal, the strength of the motives would be the same. The word "ought," however, is associated with endeavors to lengthen the line  $bc$ , while endeavors to lengthen  $ab$  are thought of in economic terms, and men are said to be "impelled" to such actions. Self interest, the impelling motive, is supposed to act horizontally, and to increase the line  $ab$ , while the "ought" acts vertically and lengthens the line  $bc$ . An artificial distinction is made in language and in the popular thought for which there is no real basis, and the realm of economics is divided into two parts.

It has been necessary to discuss the concrete circumstances which have shaped economics and utilitarianism, and kept them separate, in order to understand their historical relations and present limitation. The field of the two sciences is the same. The points where the field was entered by

early investigators for the purpose of their investigations were different. Utilitarianism was abstract, and treated of pleasures and pains as purely subjective phenomena. Economics was concrete and treated of utilities as material wealth, conditioned by the laws of the objective world. The one took the abstract laws of mental action, and sought to determine the conduct of individuals in concrete cases. The other began with the concrete phenomena of industrial life, and sought in the objective environment the motives which shape the conduct of industrial communities. The first naturally became the hope of reformers, who believed that the static crust of social habits was the main obstacle to social progress. The second became the support of the conservative classes, who saw in the concrete conditions of the objective world an unsurmountable obstacle to distasteful reforms. What might be true in the abstract, could not, they claimed, be realized in the world as now constituted. It is, therefore, easy to see why utilitarianism should assume an ethical form and contain a theory of social progress, while economists, by emphasizing objective conditions, and overlooking all subjective motives other than the desire for material wealth, should make their science static, and formulate its laws after the model of the physical sciences.

But the generalization of the laws which control men in the pursuit of wealth could not but put the science of economics in that abstract form from which utilitarianism started out, nor could the study of social reform keep away from the concrete conditions of the objective world which form the great obstacles to social reform. Thus, the one science by becoming concrete, and the other by becoming abstract, gradually lost the differences which in the beginning kept them apart, until now there is no reason why they should not be merged in one science and studied by the same method.

Economics, in its most general form, is the science of utilities studied under the concrete relations that are manifest in the social world. No matter how abstract and subjective a group of pleasures may seem to be, some of its elements are so related to the concrete economic world that the utility of the group can be measured through the presence or absence



of the economic elements. In this way, the laws of positive utilities are discovered under concrete conditions and formulated as abstract principles. Such a group of purely abstract principles, however, would not be that concrete science to which the name political economy has been given. In the concrete sense, however, there is not one economy but many economies, each depending upon the addition of particular premises to the abstract principles furnished by the science of utilities. We have been so accustomed to take the particular economy of the English people as a standard, that it has been too often assumed that it gave us the nucleus of the abstract science. Without belittling the importance of this economy, it is at least possible to show that many other economies actually exist, and some of them may in the near future have a greater relative importance than the economy of the English people. The concrete premises which create particular economies may be physical or social, and may refer to static or dynamic states of society. Free competition, private property, individualism, the tendency towards monopolies and State socialism are instances of social premises. Differences in soils, diminishing returns in agriculture, international trade are examples of physical premises. A third variety of economy is derived from a comparative study of different stages of civilization. We call these National economies, where it is assumed that the nation under consideration is in a particular stage of progress and that certain premises peculiar to it must be made the starting point of investigation.

It is thus possible to have a great variety of concrete premises to temper the abstract science of utilities which lies at the basis of economic discussion. Some alloy from the objective world must be mingled with purely subjective phenomena of utilitarianism to make the latter concrete and definite. The air of reality is lost as the two elements are separated. The science of economies must, therefore, have a scope large enough to treat of all the various combinations of phenomena that the social world presents. The subjective and the objective, the static and the dynamic, are parts of one whole, which cannot be broken up into different

sciences without obscuring the great forces that manifest themselves in these different forms, and also creating false abstractions that will vitiate any reasoning depending upon them.

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## THE FINANCIER OF THE CONFEDERATE STATES.<sup>1</sup>

THE finances of the North during the Civil War center about Salmon P. Chase, the Secretary of the United States Treasury during three years of that struggle. During those years C. G. Memminger held a similar position under the Confederate government. In judging the success or failure of the financial policy of the Federal government, we fairly give much weight to the personal influence of Mr. Chase upon legislation in Washington. In studying the financial history of the Confederate States, we similarly turn particularly to Mr. Memminger and his efforts to raise the means with which to carry on the hopeless struggle with the North.

Mr. Capers' *Life and Times of C. G. Memminger* is the first attempt at a financial history of the Confederate States. The author was attached to Mr. Memminger in an official capacity, and it is from such men we justly expect the information necessary to base a history and criticism of the Confederate finances upon. But much is left unsaid regarding the finances of the South, in which Mr. Memminger played such a prominent part, and to which he owes his place in American history. However, the reader gains an intimate knowledge of the personal character and honorable career of Mr. Memminger, which throws some light on the unexplored field of Southern history, political and financial, during the war.

Like Mr. Chase, Mr. Memminger had no special recommendations which fitted him to be the financier of a nation, especially during the exacting times of a great war. Though of foreign birth, he lived in Charleston from his early childhood. A lawyer by profession, he played no unimportant part in South Carolina politics, being particularly interested in the financial policy and banking laws of

<sup>1</sup> *The Life and Times of C. G. Memminger.* By Henry D. Capers, A. M., Richmond, Va., Everett Waddey Company, 1893, 8vo, 604 pp.

the State. As a member of several State Legislatures, and as chairman of the Ways and Means Committee, his influence in favor of sound banking and currency was considerable. After serving on the committee of the Montgomery Convention to frame a provisional constitution, he was nominated Secretary of the Treasury by Mr. Davis immediately after the latter's inauguration, which position he held till the summer of 1864.

Large expenditures, which grew from day to day with the increasing dimensions of the war, and the absence of funds with which to meet them, called for prompt action on the part of the Confederate Congress. A revenue act was at once passed on February 28th, 1861, which authorized a loan of \$15,000,000. Ten-year 8 per cent. bonds were to be issued; interest payment was secured by the imposition of an export duty on cotton of  $\frac{1}{8}$  of one cent per pound; the coupons of the bonds to be receivable in payment of this tax. These bonds were taken up at par, largely by the banks, the entire loan being floated by November, 1861. This first Confederate loan was by far the most successful of those made during the war; the provisions regarding the coupons and the payment of interest helped to keep their price in the market much higher than that of any later issue.

In May, 1861, Mr. Memminger offered his budget to the Confederate Congress. He proposed a uniform tax of 12½ per cent. on imported goods, of which, however, as subsequent events proved, little could be expected, owing to the successful blockade of the Southern ports. A loan of \$50,000,000 at 8 per cent. at home or abroad was suggested, but as this, together with the previous loan, would absorb the available loanable capital, he proposed the issue of \$20,000,000 of treasury notes, redeemable in three years, in denominations of \$5 and upward, the notes of large denominations to bear 8 per cent. interest. Moreover, a direct war tax of \$15,000,000 was urged, to be apportioned among the several States, and to be assessed, levied and collected by the State tax machinery.



The Confederate Congress acted upon these suggestions, and on May 16th, 1861, enacted a law which provided for an issue of \$50,000,000 of 8 per cent. bonds. In lieu of \$20,000,000 of these bonds, the same amount of treasury notes was authorized, bearing no interest, but receivable in payment of debts or taxes due the government, except the cotton export duty, and they were made exchangeable for the bonds. The Secretary was also called upon to collect information regarding the feasibility of raising \$10,000,000 by means of the revenue systems of the individual States. This desired information was offered the Congress in July, 1861, and upon it was based the act of August 19th, 1861, the first Confederate tax law, which, however, did not bring in any revenue during the first year of the war. Beside the small amounts realized from customs duties and from the seizure of United States funds, the revenue of the Confederate States government during the first year of its existence was almost exclusively derived from the issue of bonds and treasury notes. During the first nine months, out of a revenue of about \$50,000,000, \$18,000,000 were raised by issuing bonds, and \$32,000,000 by issuing treasury notes; for the year ending February 17th, 1862, the figures were 31 and 96 millions of dollars respectively.

To return to the tax law of August, 1861: It was evident that the government could not continue indefinitely the policy of borrowing, unless some stable revenue from taxes were established. The Confederate, like the Federal Constitution, required the apportionment of direct taxes among the States according to their representation in the Congress. The policy of depending upon the States for the levy and collection of the war tax was a fatal error. The act provided for a large issue of notes, fundable in 8 per cent. bonds, the principal and interest of which were to be paid out of the proceeds of a general property tax of 5 pro mille. Taxable property included all real estate, slaves, merchandise, bank and other corporate stock, money at interest or invested in securities other than Confederate bonds, cash on hand, cattle and household goods. \$500 worth of property was exempt in each family; also the property of educa-

tional, religious, and charitable institutions. Assessments were to be made on November 1st, 1861, and collections on May 1st, 1862. An important provision was added by which any State was allowed to assume its share of the tax by paying the amount less 10 per cent. to the Confederate Treasury in treasury notes. The Secretary was also given discretionary power to extend the dates for assessment and collection, which he made full use of. Moreover, most of the States, as was expected, assumed their share of the tax, in most cases by issuing bonds or treasury notes, and paying over the proceeds to the government at Richmond, as was done in Alabama, Georgia, Mississippi, South Carolina, North Carolina, and Virginia. By August 1st, 1862, \$10,000,000, or half the contemplated proceeds of the tax, had reached the government, and a year later the arrears still amounted to \$2,000,000.

The popular dislike of direct taxation could not be withstood by the Congress, which, instead of making the tax laws more stringent, made their enforcement more lax by liberal extensions and exemptions in the case of certain districts. The State Legislatures, on their part, by assuming the tax and borrowing, merely added to the aggregate indebtedness of the country, instead of raising their quota by taxes. The States, instead of the Confederate States, became the borrowers. In his Report of March, 1862, Mr. Memminger again urged the necessity of adopting a stringent tax law. "Enlarge the government's loans, by enlarging the means of repaying them, in other words, increase taxes," was his advice. Such a stringent measure was proposed in the Confederate House of Representatives in September, 1862, which, had it been adopted, would have raised a forced loan of 20 per cent. of all produce and profits from all sources except from investment in Confederate bonds. However, a voluntary loan of produce, especially of cotton, in payment of bonds subscribed for, was provided for, which netted the government about \$25,000,000 before January, 1863.

The lack of success with the war tax of 1861 strengthened the policy of borrowing instead of taxing. By the close of

1862, \$410,000,000 in treasury notes were outstanding, of which more than two-thirds bore no interest. The premium on gold had correspondingly risen to 125 per cent. Taxation was looked upon with disfavor previous to 1863. It was generally felt that the people were sacrificing enough, without being called on to bear the further burden of taxation. But during the first months of that year a remarkable change of feeling evidenced itself. In his Report of January 10, 1863, Mr. Memminger referred to the redundancy of the currency, and proposed to reduce it to \$150,000,000 by funding the remainder in 8 per cent. bonds. A 1 per cent. tax on property and a ten per cent. tax on incomes would, he thought, net \$60,000,000, an amount sufficient to pay the interest on all the outstanding bonds. This idea of heavy taxation, the proceeds of which were to secure the bonds in which the redundant currency could be funded, caught the popular fancy. The inflated currency was a tangible evil, which the people were anxious to remove, even at the cost of burdensome taxes. There arose a popular demand to be taxed, and a popular outcry against repudiating or compromising the Confederate debt.

This movement culminated in the passage of the act of April 24th, 1863, a comprehensive tax law, which taxed the people independently of the State governments,—whether directly or indirectly, there was no Supreme Court to decide. The law levied a tax of 8 per cent. on all manufactured goods, and on all agricultural products not necessary for family consumption, and grown in any year previous to 1863. A tax of 1 per cent. was levied on all moneys, bank-notes, and currency, on hand or on deposit. An elaborate system of license taxes was aimed at a large variety of wholesale and retail dealers. A tax of 1 per cent. was levied on all salaries above \$1,000 and under \$1,500, and 2 per cent. on the excess. However, salaries in the army or navy were exempt. Furthermore, a progressive tax on incomes above \$500 was included, the rate rising from 5 per cent. to 15 per cent. A tax in kind, especially favored by Mr. Memminger,—was levied on the staple agricultural products, and a tax of 1 per cent. on all cattle, horses and



mules not used in cultivation. The dates for assessing the taxes varied between July 1st, 1863, and January 1st, 1864. This was a heroic measure, and was made even more severe by various amendments passed on February 17th, 1864. It yielded during the year ending September, 1864, about \$100,000,000,—perhaps \$4,500,000 in specie at the time of collection,—or one-tenth of the revenue of that year.

In the absence of any revenue worth speaking of from import and export duties, three years of the war elapsed before any considerable revenue was obtained from taxation. It is hard to say what financial results would have been achieved, had the tax laws of 1863 and 1864 been passed and put into operation some years earlier. Without doubt, the credit of the Confederate States would have stood higher, and the necessity of flooding the country with an enormously depreciated currency would have been less. In each of his Reports to the Confederate Congress, Mr. Memminger urged the necessity of raising some revenue by taxation, as a basis for the government's credit. His answer to those who objected to direct taxes as unconstitutional, because they were not apportioned among the States according to representation, was that such constitutional limitation of Confederate taxing power was in suspense until an enumeration were made, when a basis for apportioning the tax would be given. His recommendations in regard to taxation were ignored, however, in every case, or were adopted in an amended form, by the Congress, whose action finally led to Mr. Memminger's resignation in July, 1864, his place in the Treasury Department being taken by Mr. George A. Trenholm of South Carolina.

It would have required a greater man than Mr. Memminger to force upon the Congress a taxing policy during the first years of the war, in the face of the popular dislike of heavy taxes. The people were sacrificing much in keeping up the struggle, the additional burden seemed to them unreasonable. A taxing policy would have lacked popular support, and might possibly have brought the war to a close some time before 1865, as in fact a similar policy on the part of Mr. Chase would have done.



This feeling of opposition to heavy taxation was, as might be expected, particularly manifest in North Carolina, in which State loyalty to the Confederate government was weak, and where many thought membership in the Confederacy was of doubtful value. It was there we hear the loudest complaints against the general tax act of April, 1863, especially against the tax in kind. At the many public meetings held in North Carolina during the summer of that year resolutions were almost invariably adopted denouncing the "monarchical, unjust and oppressive tax." They called upon the government to furnish the people with a sound currency, instead of burdening the labor and industry of the agricultural classes with a tax on their produce. How the government was to avoid both taxing and borrowing was not discussed at these meetings.

This dislike of taxes, at a time when taxes were doubly necessary, is well exemplified in the financial policy of the individual Southern States. In many of them the collection of State taxes was postponed, and in most of them their collection was lax. The revenue was largely derived from the issue of State bonds and State treasury notes, the latter generally payable in Confederate treasury notes, and hence of little value. The paper money craze affected the State legislatures as early and as strongly as the Confederate government. Virginia commenced with an issue of \$1,000,000 of interest-bearing notes in large denominations during the first month of the war, and was immediately followed by the city of Richmond, which issued a smaller amount in denominations of 25 cents and upward. Large issues soon followed, especially in Virginia, North Carolina, Arkansas, Mississippi, Florida, Alabama, and Georgia; and by the end of 1863 the outstanding State notes of Virginia alone amounted to \$5,000,000, of which \$4,700,000 bore no interest. Corporations and individuals were not slow to follow suit, and, within two years of the beginning of the war, there was afloat as currency, beside the treasury notes of the Confederate States and of the individual States, a heterogeneous mass of banknotes, and notes of railroads,—especially in Georgia and Mississippi,—of manufacturing and other cor-

porations, of counties, towns, cities and villages, and of individuals.

Under these circumstances, no government, least of all the government at Richmond, could have withstood the pressure of this paper money craze. On the one hand, Mr. Memminger found the Congress unwilling to assume the responsibility of levying heavy taxes; and on the other hand, he found the government's creditors unwilling to receive bonds in payment of supplies, and the people unwilling to invest in them. Treasury notes were preferred to bonds, the holders being lured by the hope of successful speculation in gold, or in commodities, the price of which had of course risen enormously, or in Federal greenbacks,—of which there was a plentiful supply in the South during the war. There were repeated outcries against this form of speculation, to which the high prices and scarcity of specie were ascribed,—a curious reversal of cause and effect. However, the Confederate Congress did not follow the example of the Federal Congress in passing the famous gold-bill of June, 1864, and never prohibited speculation in gold, though severe measures were enacted to suppress the trade in Federal greenbacks, the circulation of which in the South, one Congressman thought, had done more harm to the Confederate States than the Federal armies, by spreading disaffection.

In attempting to improve the standing of the Confederate bonds, Mr. Memminger suggested a measure in his Report of January, 1863, which had been in part already adopted by some of the State legislatures. His plan was to induce the States to guarantee the payment of their share of the Confederate bonds, proportionate to their representation in the Congress. The Virginia legislature had been the first to propose such a measure. Alabama and Florida had followed suit. The South Carolina legislature had even authorized its Governor by an act of December 18, 1862, to guarantee the State's share of the Confederate debt; a few months later, the amount of bonds thus to be endorsed was put at \$34,500,000. Mississippi took similar action about the same time. Mr. Memminger's plan was discussed in the Congress

in February, 1863. He hoped it would enable him to reduce the rate of interest on Confederate bonds from 8 to 6 per cent.; "the saving of interest will be so great as to enable the government, in due time, to extinguish the whole principal of its debt." Unfortunately for Mr. Memminger's reputation as a financier, there is too much of this kind of reasoning in his official reports.

Senator Phelan of Mississippi introduced a bill which authorized each State to issue bonds in proportion to its representation in the House of Representatives, to be exchanged for a like amount of Confederate bonds, which latter were to be only sold for Confederate treasury notes. This measure was, however, tabled, after being adversely reported on by the Committee on Finance. The Secretary's recommendations were never acted on. In fact, it is hard to see what could have been gained by the State's guaranteeing the Confederate debt. The States' credit would have been utterly useless in bolstering up the Confederate bonds. It would have been a case of the blind leading the blind, and quite in keeping with the financial policy of the Continental Congress during the Revolutionary War.

This attempt at credit tinkering suggests the kindred method employed to sustain the credit of the Confederate treasury notes by making them fundable in bonds. Each successive issue of notes was made exchangeable at par for 8 per cent. bonds. It was hoped that this provision would, by inducing the holders of notes to fund them in bonds, prevent the redundancy of the currency, in the face of the fact that the government was obliged to issue three times as many notes as bonds during the first year of its existence,—96, as compared with 31 millions of dollars;—the same proportion holds good for the period February 18, 1862, to September 30, 1863,—921, as compared with 281 millions. On August 1st, 1862, 42 millions in bonds, and 238 millions in notes were outstanding; by the end of 1862, 89 millions in bonds, and 477 millions in notes; nine months later, 292 millions in bonds, and 701 millions in notes. It soon became evident,—in the words of the *North Carolina Standard*,—that "if the notes are not sufficiently good to obtain the confidence of

the people, so as to prevent their continued depreciation, the bonds, issued by the same government that issued the notes, will not be regarded as much better than the notes." Notes and bonds had to stand or fall together,—the interest on the bonds was paid in notes;—no real inducement was offered to the holders of treasury notes to exchange them for bonds, and this was not done to any great extent, as long as such exchange was purely voluntary.

But with the increasing redundancy of the currency, the Congress felt constrained to add an element of compulsion to the hitherto voluntary funding. On October 13th, 1862, the first of a series of acts was passed which successively tampered with the terms of the contract under which the treasury notes were issued. The first measure of the kind was, however, mild as compared with the later "scaling acts" that hardly redound to the credit of Mr. Memminger or of the Confederate Congress. By the act of October, 1862, treasury notes issued after December 1st, 1862, were made fundable only in 7 per cent. instead of 8 per cent. bonds. Notes issued before that date were fundable in 8 per cent. bonds for six months, but thereafter only in bonds bearing the lower rate.

Apparently, this measure met with considerable success, and large blocks of notes were exchanged for bonds. "Compulsory funding," became the popular panacea for the currency evils, and numerous schemes having this in view were proposed, some of which were adopted by the Congress. Mr. Memminger was much influenced by this idea, and embodied in his report of January, 1863, a plan,—more sweeping than the one put into practice the previous fall,—by which the outstanding treasury notes might be reduced two-thirds by the extension of compulsory funding. It was his idea to set a time after which notes could no longer be funded, and would cease to be currency, though still receivable by the government in payment of taxes and dues. The small amount of notes which would remain unfunded, Mr. Memminger thought, could fairly be absorbed by a tax. He went on to say that "hitherto the policy of the government has sought to absorb the circulation by inducements alone.



Bonds at a high rate of interest have been offered, but the inducement has been abated by the depreciation of the currency in which the interest is paid. It is proposed now to supply the deficiency by a small portion of constraint." The objection that the proposed measure would be an infringement of a contract Mr. Memminger met with the counter-statement that the Congress had already infringed a contract by the act of the previous session. Every noteholder, he held, was bound to know that such a measure was within the control of the law-making power, and was likely to be adopted. Moreover, the modification of the contract would be substantially for the benefit of all parties, by reducing the volume of the currency. Other objections he met in a similar way.

The Confederate Congress adopted the Secretary's recommendations, and passed an act in March, 1863, by which all treasury notes, not bearing interest, issued before December 1st, 1862, ceased to be fundable in bonds after August 1st, 1863; those issued after December 1st, 1862, were fundable only in 4 per cent. 30-year bonds after August 1st, 1863. How sincere the Confederate Congress was in the desire to reduce the volume of the currency, may be seen in the further provision of the act under which \$50,000,000 of additional notes were authorized. The act was not well received by the public. It had no appreciable effect on the redundancy of the currency, and prices continued to rise. Gold, which at the time of the passage of the act was quoted in treasury notes at 1 to 4, was quoted at 1 to 20 by the end of the year.

Notwithstanding the poor success of the measure, the public clamored for an extension of the principle it represented. Voluntary funding of treasury notes could no longer be relied on to stem the rising tide of the currency. Forced funding was loudly demanded, as well as a "scaling" of the outstanding notes. During the winter, 1863-4, the Confederate Congress was at work on a bill, which, after protracted wrangling between the two houses in secret session, was passed and became a law on February 17th, 1864. This famous "act to reduce the currency and to authorize a new issue of notes and bonds," provided that all treasury notes

above the denomination of \$5 and not bearing interest should be fundable only in 4 per cent. 20-year bonds up to April 1st, 1864 (July 1st, 1864, west of the Mississippi River); thereafter they were to be taxed  $33\frac{1}{3}$  per cent., and be fundable at  $66\frac{2}{3}$  of their face value. After January 1st, 1865, they were to be no longer fundable, and were to be taxed 100 per cent. Notes of the denomination of \$100 formed a class by themselves, and were practically taxed out of existence at once. A new issue of notes was authorized, payable two years after the ratification of peace; the new notes were made exchangeable for the old notes at the ratio of 2 to 3.

This act did not greatly reduce the outstanding currency, nor did it "mark an epoch in the monetary department of modern polity," as one newspaper claimed it would. Instead of increasing confidence in the government, by at least recognizing, and not repudiating its debt, it impaired that popular confidence. The "ingenious adjustment" of the debt, as the *Richmond Examiner* called it, ruined the credit of the Confederate States. It may have reduced the currency by 150 to 200 millions of dollars for the time being, but it was repudiation pure and simple, and the standing of the notes could not be improved, if the holders feared a repetition of the measure, notwithstanding the pledge of the government not to increase the amount of notes outstanding, contained in the act. In the face of the contraction of the currency, so much dreaded by the newspapers, prices not only did not fall correspondingly, but persistently rose. Gold steadily rose from 1 to 20 in notes (January, 1864.) to above 1 to 30 (December, 1864). Flour sold for \$110-115 per barrel in January, and for \$275 in December, 1864; cornmeal for \$14 and \$75 per bushel.

The currency legislation of the Confederate States reminds one forcibly of the similar policy of the Colonial legislatures; the act of February, 1864, was a repetition of the colonial systems of bills of credit, "new tenor," exchangeable at a fixed ratio for the depreciated notes, "old tenor." This scaling of the debt was not the only case of reversion in the history of the Confederate States to the earlier, Colonial, ways. The Southerners returned to those earlier days in

their laws fixing prices; in their other expedients to lower prices, and improve the standing of their treasury notes; in their taxes in kind, their produce loans, and their system of barter in general; but particularly in their dislike of heavy taxation. To the credit of the Confederates, however, it should be said that in one particular they did not follow the example of their Colonial ancestors. They never passed a legal tender act. Mr. Memminger's position in opposing any such law on grounds of expediency was much to his credit, and compares favorably with the position Mr. Chase took in the matter.

The currency act of February 17th, 1864, marks a turning-point in the financial history of the Confederate States. Its provisions were made somewhat more stringent by later acts, which attempted to tax the old notes out of existence, for these continued to circulate, notwithstanding their discredited condition, and in some cases exchanged at par with the new notes.

In July, 1864, Mr. Memminger retired in favor of Mr. Trenholm, who apparently did not bring about any change in the fiscal policy of the Confederate government. It had long been doomed financially.

The act of February 17th, 1864, wrecked the finances of the Confederate States just as the similar act of March 18th, 1780, wrecked the finances of the Continental Congress. In fact, whatever the financial policy of the Confederate States during their struggle for independence was, it was merely a repetition of the measures of the Continental Congress to carry on the Revolutionary War and avoid a bankruptcy. In both these memorable struggles, the revenue from indirect taxes, export and import duties, which almost disappeared, was replaced by an indiscriminate appeal to borrowing. Taxes in general were highly unpopular, and, when apportioned among the several States, were unsuccessful. By the issue of paper money, the people were avowedly spared the burden of taxation, which, under the circumstances, they might have been unwilling to add to their other burdens in carrying on a great war. The confiscation of the enemy's property characterized the legislation of both periods. In

both, stringent but fruitless efforts were made to prevent the enormous rise in prices due to the redundancy of the currency and to the lack of confidence in the government. Laws fixing prices were passed; speculators in specie and in commodities were severely dealt with; other laws were passed to prevent the refusal of notes; still other laws were aimed at the treasonable trade with the enemy. In both periods, there was a return to earlier forms of exchange, to barter and to taxes and loans in kind. Finally, both the Continental and the Confederate Congress impaired their obligations by scaling their currency, though the Confederate Congress never went so far as to make its notes a legal tender in payment of all debts.

The alliance with France, in particular, the arrival of French specie, saved the United States from utter financial ruin. No wonder, then, that the recognition by France or England was so strenuously sought after by the South. Had it been effected, who knows whether the result of the Civil War would have been quite the same. In patriotic support of their cause, the South was far ahead of the men of the Revolutionary period. With the moral and financial recognition of the Confederate States by some of the European powers, their credit might have been sustained sufficiently to moderate the overwhelming defeat they suffered.

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## THE GENESIS OF CAPITAL.

THERE is a famous remark about Ricardo to the effect that he "shunted the car of economic progress on to the wrong line." I cite the remark as a tribute to Ricardo's personal power, and desire to pay a similar tribute to an eminent Austrian. The turning of science completely out of its course is, at present, impossible; and yet, the brilliant studies of Professor v. Böhm-Bawerk have given an oblique trend to much of current thought. Using the figure that was employed in Ricardo's case, we may say that the Austrian economist has placed one truck of the scientific car on a newly constructed side track. It is, indeed, a track from which it is possible to return the car to the main line, by a certain detour; and the diverging route itself traverses a fruitful region. Economic theory owes a vast general debt to the author of *Capital* and *Interest*; but it will solve the specific problem of interest, as I venture to claim, after it has returned to the route that he has abandoned.

Interest is an *agio* due to time, and not an economic product. There is a premium on articles for present consumption as compared with those for future use. If we can have a thing now, it is worth more, according to our present valuation, than it would be worth if we must wait for it. Present goods are valued more highly than future goods of like kind and quantity. Here is a driving horse and a pleasure carriage; if you can have them at once, you estimate the personal good to be gotten from them at a certain figure. If you must wait for them, the figure that expresses their present value shrinks. If the interval of delay is a year, and if the shrinkage is five per cent., that is the normal rate of interest. The essential fact in the case is that you are comparing a service now to be rendered by an article, and a service to be rendered later by an exactly similar article. It is the horse and carriage of 1893 that are compared with a horse and carriage of 1894.

It is certainly not the recognition of time as an element in the problem of interest that I would criticise. Phenomena of the present are certainly compared by everyone with those of the future. I shall try to indicate certain striking ways in which the prospective lapse of time lessens the capitalist's present estimate of the gains to be secured by saving. The part played by time as affecting subjective valuations needs a complete study. The question now raised concerns the manner in which, in the Austrian theory, time is made to act. It puts a discount on particular concrete goods, when the consumption of them is to be deferred; while in fact, particular concrete goods are not, in actual life, subjected to this comparison. It is not the driving horse of 1893 that is compared with one of 1894, when the typical capitalist foregoes such a luxury, and adds two or three hundred dollars to his invested fund. The assumption that identical concrete goods of the present and of the future are so compared is the wedge-like end of the switching rail that takes the wheel of the scientific car from the rail on which it belongs; and the deflection soon increases.

The program that the capitalist would carry out, if this assumption were valid, is the following;—from the income of a period now closed he defrays the more necessary expenses of that period, and finds, say, two hundred dollars remaining in his hands. He may use this as he likes, and concludes that if he spends it now, he will buy the driving horse of the illustration. He further decides that he will actually spend it at a future time,—say at the end of a year,—and for that identical thing. The prospective horse is to-day worth a hundred and ninety dollars; and the rate of interest is five per cent.

The assumption differs from the fact in the following particulars:

(1) True capitalization is permanent, and not transient. It does not consist in saving wealth to-day, with the intention of spending the principal so accumulated at any future period. It consists in saving with the intention of never spending the acquired principal at all. If I now forego a luxury and add the price of it to my estate, I do it with no

design of afterwards diminishing my estate, and, by this means, securing the luxury. I lay the amount permanently aside, and forego, once for all, the pleasure I could have had from consuming it.

If I am a typical capitalist, the dollars that, year by year, add themselves to my accumulating fund, by the foregoing of possible luxuries, will never buy those luxuries. If any dollars buy them, they must come from another source.

We shall more clearly see that this is evident on a *prima facie* study of social capital and interest. The problem that the economist tries to solve is that of interest on a perpetual social fund of productive wealth. It is evident that there is in society a fund of capital that never disappears, and that always draws interest. The economist has set for him the problem of accounting for the fact of this interest and the rate of it; while the moralist has upon his shoulders the burden of justifying or condemning it. If this fund continues forever, the existence of it means a perpetual renunciation of the benefit that the spending of it would have secured. The very conditions of the problem of interest compel us to regard the creating of capital as something besides a mere deferring of expenditure.

Moreover, if a man adds to this perpetual fund, he does it by a definitive renunciation of a certain expenditure on his own part; and this is what a typical capitalist does. He adds something to an estate that he means to keep intact and to transmit, with all its accumulations, to his heirs or successors.

(2) There is, however, in society a class of transient accumulators, who are only quasi-capitalists. They save sums now, intending to spend them later. These men, if any, are in a position to compare present goods, with future goods of like kind and quantity. They know, in a general way, what they forego by saving a hundred dollars from their income in 1893; and they can, if they so desire, buy essentially the same things, when they spend the amount in 1894, or, more probably, at a much later date. Do they expect to take this course? Do even these men compare the particular goods that they forbear to purchase now

with identically the same list of goods to be purchased at a future time?

These men are saving "for a rainy day." They are providing for a time when they will be in especial need of their accumulations. Before them is a remote period of age and infirmity; and there are intervening times of helplessness or enforced idleness. When regular incomes fail, savings must be drawn upon. In accumulating their funds, the men look forward to these necessitous periods. Do they expect, then, to procure exactly the things that they now go without in order to acquire their temporary capital? Do they mentally compare the benefit to be derived from present goods with that to be had from future goods *of like kind and quantity*? What they go without to-day is something that they rate as a luxury; and what they will buy later is some of the necessities of life. It is because they see before them times when, in the absence of a savings bank account, the necessities of life will be lacking, that they accumulate their transient capital at all. The marked unlikeness between that which they forego to-day, and that which they expect to purchase later, affords the motive for their action. They do, indeed, compare a *sum of wealth* existing to-day, with a like sum to be used later. The key to their mode of estimating the two sums is the fact that at the two dates they represent quite different goods.

There are, then, two classes of abstainers. The true capitalist never intends to spend his principal at all. He has no motive for comparing present goods with future goods in all respects similar. It is only by contemplating the prospect of at some time spending a sum identical with the one that he now lays aside that he could bring present goods and a like list of future goods into view. If he expects to spend in each year only the earnings of his fund, he cannot, at any one time, procure what he might have had at the outset, by spending the fund itself. If we arbitrarily add the interest or earnings of the fund for twenty years, and say that this total equals the fund itself, we cannot suppose that, as spent from year to year, they will procure the things that at first were to have been bought, if the principal had not been saved.



The quasi-capitalist will spend his savings; but his reason for doing it is the fact that he will need to buy with them things much more necessary than is anything that he could buy with them to-day. Into no mind, therefore, does there naturally enter a comparison between present goods and future goods in kind and quantity similar. If there are cases in which abstinence deprives a man of certain things now, and the reversing of the process gives him the same things later, they must be so fortuitous and so rare that they cannot figure in a theory of interest. In such a theory the question how a man may compare goods in the present with the same goods to be used in the future, is nearly irrelevant. Yet the manner in which men compare certain phenomena in the present, with certain other phenomena anticipated in the future, is one fundamental fact of which a study of interest must take account.

The basing of interest on a comparison that is not actually made in life, is, perhaps, traceable to a definition. The acute author of the theory that we are criticising has determined at the outset to treat capital and capital goods, or concrete instruments of production, as, for scientific purposes, identical. Capital is always "mediate goods," or those that, in the series of phenomena by which goods for direct consumption are created, stand between labor and such goods. For the common and practical conception of capital as a permanent fund, or amount of wealth expressible in money,—though not actually embodied in money,—there is substituted the conception of concrete goods, distinguishable from others by reason of the place that they occupy in the order of industrial phenomena.

In one view this is a welcome advance, as compared with the wavering course pursued by older economists, who have used two different conceptions of capital interchangeably, and have continually passed from one to the other, in seeming unconsciousness, in the same argument. This course has entailed confusion in the writings of each one who has adopted it, and it has caused needless controversies between different writers. The mass of wage fund literature, with which economic science is encumbered, is the largest

single result of the confusion of capital and capital goods.

The exclusion of one of these subjects from the discussion entails difficulties of a different kind. There is in existence a permanent fund of productive wealth, expressible in money, but not embodied in money; and it is this that business men designate by the term capital. It needs to be recognized and studied by economists.

This permanent fund always consists in goods. It is not an abstraction; and it is not a force independently of matter. It has substance. If at any instant we could collect in one place all the material forms of wealth that do not directly minister to consumers' wants, we should have the fund, for the moment, before our eyes in substantial embodiment. It would not do to keep it there. If we were to do this, the capital would be destroyed. Goods remaining in a great aggregation could not be capital; but goods perpetually coming and going may be so. Preventing this movement would be like stopping that destruction and renewal of tissue that goes on in the human body. It would destroy life. Tissues held *in situ* do not constitute a living human body; and a list of concrete goods that for any length of time retain their identity, does not constitute capital. This fact of continuous change in the goods that constitute the productive fund of society makes it impossible to treat the goods and the fund as, for scientific purposes, identical. There is a long list of assertions that are true of capital goods, and that directly contradict the truth, if they are made concerning true capital, or a permanent productive fund.

A business man knows that his capital does not really consist in money, and, yet, he persistently uses the monetary form of expression in speaking of it. He will say, perhaps, that his capital is "a hundred thousand dollars."

Amid the continual coming and departing of the concrete goods that, in his business, he uses, a hundred thousand dollars' worth of wealth remains permanently his. In his mind, as in any mind, this fact is well expressed by saying that that sum remains in his possession, though it shifts continually its forms of embodiment. The "dollars" are always his,

though they change the forms in which they are "invested." Interest is the fraction of itself that the permanent sum annually earns.

The raw materials in a work-shop are, in time, finished, sold and used up by customers. Tools and machines are worn out and replaced. True capital abides, because the things that at any one instant constitute it do not abide. Stop the selling of goods and the wearing out of tools, and you waste true capital. Lock up the mill and the full warehouse, and you ruin the owner. It is clear that, in scientific study, we cannot confine our attention to capital goods, and we certainly cannot treat them as equivalent to true capital for purposes of analysis.

A water-fall consists in particles of water. Can one say the same things of the fall that he does of the water? The water moves; the fall stays where it is. The water appears in globules condensed in the atmosphere, and it ultimately merges itself in the sea. The fall does not appear nor disappear. Capital goods are, like particles of water, vanishing elements. True capital is like the fall; it is an abiding element, owing its continuance to the constant wasting and replenishing of its substance.

Goods have periods of production. Capital has no periods, but acts incessantly. If you make divisions in its life, you must do it arbitrarily, by using solar days or years. You can fix a time when an instrument originates in the crudest of raw material, and a time at which it wears itself completely out. The interval between these dates you may term its period of production; but what limited period will you find for the action of true capital? It acts from the beginning of civilized life to the end of all life.

The genesis of capital goods is unlike that of capital. The former process consists in the making of things. It is the fruit of industry, and goes on in every field and in every shop. In the mills of Lynn and Brockton men work, machines run, and shoes, which for the time are capital goods, are created. It does not follow that capital, as a permanent fund, is in this way necessarily created. In times like the present it is well if capital is not impaired. Nothing

generates capital that does not add to the permanent fund of invested wealth.

The genesis of capital takes place by a process for which the good old term abstinence is, as I venture to maintain, the best designation. It is not waiting, as the modern form of expression calls it. That introduces at once the idea of a definite period, and also the idea of postponing something now, and getting the same thing later. Under that form of expression we are supposed to put a particular good away from us now, and to get it, in its integrity, at a certain later date. The fact is that, in creating capital, we put the personal good away from us forever. In so far as there is an "economic merit" in the case, capable of figuring in ethical problems, this is it. The act is abstaining in a completer sense than that which even the older economists attached to the term; for it is putting a distinguishable personal good out of one's life forever. The result is not merely that goods are created, as in all industry; it is that an addition to the social fund of perpetual capital is brought into existence. A thing is generated that normally will never perish.\*

Not only is it true that capital has no periods; its function is to annihilate periods. This is the antithesis of the statement made by Professor Jevons. He spoke of capital as interposing periods between labor and its fruits. That is what capital goods do. True capital in effect annihilates these intervals created by capital goods. It causes the fruit of industry to be gained instantly on the performing of the industrial act. Because of the conditions attaching to the use of leather and machinery, the man who now begins to make a pair of shoes must wait for a time before he can have *that particular pair* on his feet. Because there are in existence shoes in all stages of completion, he can have a pair at once; and the pair that he gets is the virtual fruit of his own industry. Because of the permanent fund of social

\* This is not saying that no capital ever perishes in fact. Untoward accidents occur. We here speak of what is, in the strict sense, normal, and the perishing of capital is not so.



capital, society gets its shoes and other things as it works,—day by day. To-day we work, and to-day we eat; and the eating is the effect of the working. The simultaneity of the two is the result of the existence of a fund of true capital. It is this that annihilates time intervals.

Somewhere in Alabama a man is lighting a fire that will smelt ore and make steel. The steel will become rails, over which trains will ultimately run to a world's exposition. We may look at the lumps of ore now being thrown into the furnace, and locate in time, as best we can, the completion of the process of which these lumps are to be the instruments. The time that ore requires for what is called ripening we may term its period of production. We have claimed that the existence of a fund of true capital annihilates this period; and the hydraulic illustration already used will show how this is done.

Drops of water that flow into a reservoir have periods of mechanical production. It takes time for them to ripen into the motion of wheels; but the water power as such has no such periods. The water that at this moment is flowing from the inlet into the upper end of the reservoir may consume a fortnight in reaching the turbine wheel; but if a full reservoir be presupposed, the inflow causes motion at once. The water now entering the pond causes an immediate overflow at the lower end, and that moves the wheel.

A'''

A''

A'

A

Let A''' represent an article for consumption, while A'' A' and A represent the materials, raw and partly wrought, of which it is made. The creating of A, the rawest material, is the effect of labor aided by capital, and both the laborers and the capitalists in the group that makes this article must have the finished article, A''', for use. Must they wait for it? Clearly not. The fact to be recognized is the existence of the fund of true capital. That means that the supply of materials in different stages of advancement must be kept in

unimpaired quantity. A, A' A'' and A''' must be as plentiful at all times as they are now. If we accept this perpetuation of the fund as a condition of the problem, it follows that work bestowed at any point along the line of ripening products produces its virtual effect at once in a product fully ripened. The making of A causes, as it were, an overflow at the other end of the line. It causes a supply of A''' to emerge from the shops and pass to the men whose action causes the overflow. The making of A enables the A of yesterday to become A', the A' of yesterday to become A'', the A'' of yesterday to become A''', and the A''' of yesterday to move on into the possession of consumers. As the finished article emerges from the shops, it, under normal conditions, divides itself impartially among the men all along the line. A worker in the lowest group will not get to-day a finished product made of the particular material on which he is now working; but he will get a product due to his present work, though made of other material. He will, moreover, get a commodity made from the general stock of capital goods on which he and others, in an organized way, are working. He is to be thought of as applying his efforts to the moving series of capital goods in its entirety. As applied to capital, in the true sense of that term, work produces immediate fruit and gets it. The moving series of goods constitutes, by virtue of its moving, the fund of true capital; and this fund synchronizes all industry and its fruition, from the crude digging of materials from the earth to the putting of the finishing touch on a delicate product. For abundant reasons it is the whole fund of capital, rather than particular articles that transiently are component parts of it, that must be considered primarily, if capitalistic production is understood. The payment of wages and interest wastes the tissue of capital. The waste takes place all at one end of the moving series of goods of which capital is composed. Work all along the line plus the moving of the goods from point to point has the effect of restoring the waste *at exactly the point at which it occurs*. The ultimate effect of it all is that finished goods are taken from the warehouses for consumption; similar goods are at once put into the warehouses, and the

stock of unfinished goods continues throughout exactly as it was at the beginning.<sup>1</sup>

We can now see two opposite ways in which capital goods and capital respectively are "mediate," or in a position between labor and some result. Capital goods stand in time between labor and the ripening of the particular bit of material on which that labor is bestowed. Capital stands in a causal way between labor and its true and immediate fruit. It is the reason why work now bestowed on A causes A'' to immediately emerge from the shops.

We have in sight the motive for abstinence. It creates something that aids in the production of usable articles from the moment when it takes its place in a complete and properly coördinated series of capital goods. The good that might have been had, if the principal had not been saved, is definitely abandoned; that which is obtained begins at once and ends never. It begins to come immediately in the form of a share of the never ending series of usable products that emerge from the work-shops. The capital goods that are set working to produce this result are not permanent. They pass away and are replaced. The sum of wealth, or true capital, that is set working in order to produce the result is, in the absence of untoward accidents, perpetual, and yields perpetual fruits.

In the case of the capital, therefore, there is no ripening time to which the owner looks forward. Particular goods ripen; but the time when even this takes place is a matter of indifference to the capitalist, provided that ripe goods, made of any unfinished material whatever, come to him at once, as his capital does its work. The capital itself will never ripen. To save is to become the owner of wealth that will be forever embodied in goods unfit to do any direct good to any one. The things that embody the principal that is saved are, as it were, in a state of perpetual

<sup>1</sup> In a dynamic condition of society industries are often started that are wholly new. In these cases some time is required before any goods are ready for consumption, and during this interval owners must wait for their expected products. After the series of goods in various stages of advancement has once been established, the normal action of capital is revealed. Thenceforward there is no waiting.

immaturity. They help to create mature things, and secure to the owner a share in the never-ending output of them. Drawing interest is getting each day a small amount of ripe goods in consequence of owning a perpetually shifting list of unripe ones. It is getting daily a little of  $A'''$  in consequence of forever owning a larger amount of  $A'$ ,  $A$  and the like.

This does not prove that a study of capital goods and their periods of production is not, for certain purposes, legitimate. It seems to prove that, when a fund of permanent capital is once embodied in a coördinated series of such goods, the owner does not have to look forward through an interval of waiting to a time when he can begin to enjoy the products created by the use of them. It proves also that the laborer has no such waiting before him. For both of these men ripened products emerge, as the mills run, day by day. Industry and its fruition are simultaneous.

**A few propositions are worth noting.**

(1). The saving of the capital involves a definitive annihilation of a personal good, the amount of which can be, in a rude way, calculated. How intensely do I want a hundred dollars for immediate consumption? I think of the comforts that I would buy with this sum and answer the question.

The getting of interest involves the securing an endless series of smaller benefits, the amount of which can be calculated only in a ruder way. The benefits are normally to continue beyond the life of the original capitalist and those of children and remoter descendants. They are subject to grave uncertainties, which are prominent elements in the calculation. If the capital is never lost, the fruit of it will be culled mainly by successors so remote that their future existence is scarcely a conscious present factor in a man's motives. A series of benefits extending into an unseen region of uncertainties constitutes the gain that offsets the annihilation of present benefit. While the mere amount of the wealth that is now abstained from is definite, the amount accruing in the form of interest is indefinite.

(2) The personal good that might now be had by the consumption of a given principal is more or less definite. I



know about how much good I might get by spending my hundred dollars. The personal good that the perpetually accruing interest will secure, even supposing that the amount of it were certainly known, is very indeterminate. I do not know how much good five dollars a year will do to me; and still less do I know how much that sum will signify in promoting the welfare of remote heirs.

(3). Finally, good that is to accrue to myself is a motive that is, in a way, calculable; but good that is to accrue to others than myself is to me a motive that is real, but far less calculable. The strength of the resolution to abstain from present enjoyments in order to create a permanent fund depends primarily on a man's altruism. How many generations of descendants will he consider? How powerfully will benefits accruing to them appeal to him as a motive for present action? These are the questions to be answered. The resolution to practice abstinence depends, secondly, on a man's reason. A perfectly reasonable being would make no difference between a present good and a future one merely because of the intervening time. Uncertainties count. The chance that capital may be lost is to be considered. With men whose altruism is imperfect, the fact that the benefits resulting from saving accrue mainly to others tells against the process. With men whose reason is imperfect, the mere lapse of time is a consideration. Very far from a simple comparison of the benefits to be derived by a man himself from present goods with those to be derived from similar future goods is the calculation that a capitalist has to make. He does not even compare a sum in the present with a like sum in the future; neither does he compare a benefit coming to himself with another benefit coming wholly to himself. He does not even compare any two subjective benefits both of which can be definitely measured. The gains that are expected accrue at intervals, through an endless period, to an unknown series of persons, and in amounts that cannot be determined. The things that are eternal are literally unseen. Only the small and vanishing beginnings of them fall within the capitalist's visual limit. It is the power of the indefinite over the definite, of the

unseen over the seen, that furnishes the motive of that progress that depends on the accumulation of capital. The increasing power of the things unseen indicates the growing power of reason and of altruism.

At any one time reason and altruism work till they reach their limit, and accumulation then stops. It is wrong to say that at the point of cessation, the personal cost of creating capital equals the personal gains accruing to the owner in consequence of it. Two opposing motives for action are at that point in equilibrium. One is the definite personal sacrifice involved in abstinence. The other is an endless series of gains incapable of exact measurement and extending through unknown generations. Not simple is the action of time in the calculations of the capitalist. That on which the effect of time is observable is not so much gains as motives.

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## BOOK NOTICES.

*An Introduction to English Economic History and Theory.* By W. J. Ashley, M.A. Part II. The End of the Middle Ages. London and New York, G. P. Putnam's Sons, 1893.—xii, 501 pp.

The study of economic history, of which Professor Ashley is so prominent an exponent, is destined to have a marked influence in enlarging the field of legitimate historical study, and in altering our conceptions of what history is and what are the laws which govern historical development. Theories regarding the philosophy of history have been formulated too much from the standpoint of the single man influence. Constitutional and economic history are showing the existence of deeper and more hidden forces, and are laying bare regularly developed series of causes and consequences, which, if not definable as laws in the sense of the exact sciences, are close approximations thereto. The truth of a philosophy of history seems to become stronger, as this side of our subject undergoes investigation, and a due prominence is given to sociological factors.

But it is not as a contribution to the philosophy of history that we welcome the second volume of Professor Ashley's work. It is as a study, carefully and scientifically conducted, of the life and activity of the people, in their environment of town, gild, open field, or enclosure. In general plan and method of treatment, there is very little departure from the scheme followed in the previous volume published in 1888. The new volume is, however, larger, the subjects treated more numerous, and the evidence of first hand investigation more frequent. Professor Ashley has shown himself familiar with the most important and available printed materials, and has utilized them with ingenuity and care. The task of writing the economic history of England is by no means an easy one. The treatment must of necessity be wanting in continuity of thought; the number of questions left unanswered must of necessity be large; the answers to many others must be little else than tentative; further investigation will call for restatement in subsequent editions, some problems will remain permanently unsolved, because of the paucity of the material. In taking the initiative, in cutting the first path through a tangled wilderness where others have cleared only in spots, Professor

Ashley has associated his name closely with economic history and theory. We may not follow in every particular his argument, nor agree with all his conclusions, we may be displeased with the attitude assumed toward many knotty problems which no one has yet solved, and we may wish that he had been less dogmatic and self-assertive where others have expressed themselves more cautiously, nevertheless he has borne the brunt of the first attack and has made the task of those who are to follow lighter.

Of the six chapters before us, the first on the supremacy of the towns, the second on the craft guilds, the fifth on the relief of the poor, and the last on the Canonist doctrine, are the most satisfactory. Again Professor Ashley lays down the principle which he emphasized in the preface to his first volume, that whatever supplies a need in the economic education of society has its historical justification. We presume that he would not limit the application of the principle to the economic field only, in which case we might find it difficult to avoid the epicurean conclusion that whatever is is right. Yet the proposition is simple and axiomatic enough. In the self-centred character of the town life, in the rigid control exercised over the markets, in the sense of solidarity expressed in the common undertakings and common property and the elementary and often clumsy methods employed, whereby all possible benefits might accrue to the town itself, we see the phenomena of a stage in economic history when communication was difficult, individualism little developed, centralized authority outside of the town of doubtful efficiency, and the burden of control thrown upon the shoulders of the municipal government. Town activity was as great as to-day, but that with which the town busied itself, rendered apparently complex by minuteness of treatment, was often elementary in character and limited in scope. Professor Ashley's chapter is exceedingly interesting, and opens up many questions to the students of the early history of our own towns, which passed through not dissimilar stages. In this chapter we may notice a tendency to lay undue stress upon the aristocratic and legal side, and an inclination to generalize upon insufficient data. It is not impertinent to ask if we may not find some logical connection between these two tendencies? Is the first a consequent of the second?

In his treatment of the craft guilds Professor Ashley has done his best work, and it may be said that there is no better chapter



written on the subject, remembering, of course, that Dr. Gross's book makes no pretence to be complete for so late a date. The method of treatment is rather dynamic than static, though the reader often wishes that more care had been taken to give dates as definitely as possible for those important economic changes to which even conjectural dates can be given; it would have prevented a not infrequent vagueness. Yet the main idea is clear, which is to represent the craft guilds as the chief factors in a period of industry, between agriculture on the one side, which was dominant until the fourteenth century, and trade on the other, which, with the growth of navigation, international communication and colonization, became increasingly important in the sixteenth and seventeenth centuries. The chapter discusses the origin, functions, organization, and development of the craft guild; its relation to the merchant guild; the extent and duration of apprentice service, the nature of liveries, and the conflicts between masters and journeymen. Professor Ashley has shown good judgment in leaving the chapter on Foreign Trade for the next volume, as the one before us is sufficiently bulky, and the subject could hardly have received adequate treatment, when we consider the conditions under which he wrote.

The chapter on the woolen industry and that on the agrarian revolution have already appeared in print, and while the first has received considerable addition, the latter, one of the most important chapters in the book, seems to me wholly inadequate. Professor Ashley acknowledges its incompleteness in the preface, but his explanation might have been accepted with better grace, if he had been willing to recognize the present unsatisfactory state of the problem, and to moderate the positive tone with which he states his conclusions. The articles, when originally printed in the "*Annals of the American Academy*," and the "*Economic Review*," were confessedly incomplete, and were not considered to be more than tentative statements of opinion. Yet here they are printed almost verbatim. As then stated, the support for the main argument is meagre, and the evidence is too scattered, consisting as it does of isolated and occasional cases and the testimony of the text-books. Of the former, the interpretation is by no means certain, as the author has confessed in note 38 to this chapter. Until there be a thorough and analytical investigation into the court rolls and bailiffs' accounts of a score or more of mediæval manors, and the material is not wanting, it will be

impossible to dogmatize regarding the security or insecurity of villein tenure. Professor Ashley's argument is a clever weaving together of a limited amount of scattered evidence. Such a method will not, however, carry conviction. Guesses are guesses, not statements of fact, and they cannot now be called by any other name, even though some of them prove eventually true. The fact that commutation was not always at the desire of the lord, who preferred his villein to hold at work rather than at money rent, and the fact that tenancies were held at less than their estimated value in the bailiff's books, would show a practical security of tenure, whatever the law books may have said to the contrary. The not infrequent desertion of tenancies, in and after the fourteenth century, compelled the lords to find new tenants at a money rent instead of in works as they desired. This, which is made clear by the continued reckoning of the value of the tenancy in works long after the money rent had become a practical fixture, seems to have been based on the hope of a return of the deserter, or of a renewal of the holding in terms of work. This also would tend to make secure the villein's position. The argument depending on the opinion of Brian, C. J., hardly needs refutation. Its weakness is evident when we know how wholly uncertain it is that the judges were Yorkists, and how improbable it was that the judgments rendered would have a political coloring in face of the permanent and independent position of the judges. There is too much inclination in Professor Ashley's discussion to stand by the letter of the law-writers and Acts of Parliament, and to neglect the examination of the manorial records themselves. The map giving the probable extent of the enclosures at the close of this chapter will be a useful starting point for a more complete and accurate treatment of the same subject.

The last chapter on the doctrine of the Canonists is a clear and well constructed compilation of the facts gathered and opinions expressed by German writers upon the subject, and is interesting from the ethical as well as the historical point of view. Its value lies in the fact that it is a presentation for the first time in English of a form of economic doctrine incident to the Middle Ages, and applicable rather to the Continent than to England. Professor Ashley has given no conclusive evidence to show that it ever did have an influence in England, and until we have more precise information, we must accept Bishop Stubbs' statement that the canon law never was received in England as authoritative.

In justice to Professor Ashley it may be said that the character of the subject is in part responsible for the lack of continuity in the presentation of his material, but it does seem as if the arrangement might have been more methodical, and more attention have been paid to historical sequence and chronology. The style is hard and compact, due to the compression of so much into so short compass. This together with the absence of logical order in the distribution of the various questions examined within the chapters, together with the tendency to take too much knowledge for granted on the part of the reader, will make it a hard book for students. But such possible defect must be judged by experience rather than by the casual impression left upon the mind of the reviewer.

It is unnecessary to say that this volume, as was the first, is an exceedingly useful addition to the literature of economic history, and it is to be sincerely hoped that, with the completion of this work as already planned, nothing will prevent the appearance at some future date of an enlarged and more complete edition.

CHARLES M. ANDREWS.

*The City-State of the Greeks and Romans.* A survey introductory to the study of ancient history. By W. Warde Fowler, M.A. London and New York, Macmillan & Co., 1893.—12mo, xviii + 332 pp.

This will be found a most interesting and stimulating volume, not only by those who are just beginning the serious study of ancient history, for whom it was primarily intended, but by anyone who concerns himself at all with the development of political institutions and with the relation between such institutions and other phases of civilization. The book is the expansion of a series of lectures delivered for several successive years at Oxford; but one is nowhere reminded unpleasantly of this origin. It aims to "construct in outline a biography, as it were, of that form of State in which both Greeks and Romans lived and made their most valuable contributions to our modern civilization." The author declares that there is nothing new in it; that it is merely "an attempt to supply a defect in our educational literature." But in this rapid sketch, grouping together the Greek and Roman forms of the city-state, marking distinctly their salient features in the successive periods of their history, Mr. Fowler has certainly succeeded in giving to some familiar facts a fresh

meaning. One rises from the work with a new conception of the relation of the city-state both to what preceded and to what followed—the Roman Empire and the modern state; one realizes anew how it was that in these compact societies, each bound together by all the ties, both natural and artificial, that can bind together a community, art, literature, law, and philosophy came to full bloom and fruitage as they could not under less perfect political forms. In some cases the author has been particularly happy in characterizing an institution or a tendency or a mode of action. The validity and the limitations of the method of argument from survivals are shown admirably though briefly; the characteristic difference between the Roman treatment of the *imperium* and the Athenian treatment of the kingly office, is described as a difference of species rather than of genus; the real service of the aristocracy to human advancement is made clear; the period of decay is so handled as to give a clear idea of the transition to the great Roman empire out of which modern states have risen. Naturally so brief a sketch cannot do more than emphasize the main outlines, and Mr. Fowler duly calls attention to the fact that his brief statements must often be criticized and corrected as the student's knowledge is enlarged by more elaborate studies. But we have observed nothing that can seriously mislead, except the dating of Kylon's insurrection after instead of before the legislation of Drakon (p. 127). Aristotle's narrative in the *Athenian Constitution* is clear on that point.

Less brilliant than *La Cité Antique* by Fustel de Coulanges, *The City-State* is broader and sounder in its views, and not a whit less interesting. It is not, like that famous work, dominated by a single idea, but gathers up the results of many investigations, combines them in a lucid arrangement, and sets them forth in a transparent and attractive style. T. D. GOODELL.

*The French War and the Revolution.* By William Milligan Sloane. (American History Series.) New York, Charles Scribner's Sons, 1893.—12mo, xxii, 409 pp.

At no time in our history has the interdependence of European and American events been more intimate and important than during the period which witnessed the downfall, first of French, then of English power in the new world. It is this period which has been selected for treatment by Professor Sloane in the second volume of Scribner's "American History Series." The treat-



ment is in a high degree broad and scholarly, presenting "a reasoned account of all the facts" which are of importance to a correct understanding, first of the nearly world-wide struggle of which the French and Indian war was the American phase, then of the no less momentous struggle in which the American colonies achieved their independence, while England found herself confronted by all the important maritime powers of Europe.

While the discussion of necessity deals largely with wars, it gives prominence to the process by which was evolved "a new theory of government by the application of English principles to American conditions." The constitutional argument may be traced as follows, partly in the words of the author selected from the preface and from chapters X to XIII.

The years 1760 to 1775 are among the most important in the history of constitutional government, because in them was tried the issue of how far under that system laws are binding on those who have no share in making them. Now, almost for the first time, theory instead of historical development, was to play a decisive part in English history. Two theories confronted each other; one that each member of Parliament represented all English interests, hence all parts of the empire were virtually represented in it; the other that each member represented only the interest or borough which returned him, hence there was no representation without a direct delegation of authority by a specific body of freemen. Here lay the gist of the whole matter. The first theory found its practical application in England in the assertion of parliamentary supremacy; the second led the colonists to claim for their own assemblies powers over them which they refused to yield to Parliament.

The issue was joined on the subject of taxation, and here the object sought was not the most effective plan for wringing large sums from an unwilling people, but rather the application of a logically consistent but distasteful method for securing sums which the colonies were willing to grant, if allowed to do so in their own way. Here we note a departure from English precedent in pushing a theory regardless of consequences, instead of seeking a practical end in the way most likely to be successful.

In 1760 and for some years after, the English in America were exuberantly loyal, and proud of their membership in the victorious British Empire. Hence their disposition to reduce as much as possible the area of pressure when resistance began. This

was seen in their cheerful recognition of Parliament's right to impose external taxes for imperial purposes, while they denied its right to lay internal taxes for local purposes. This was not a working hypothesis as the British Empire was then constituted. Parliament either had full right to tax, or it had none. The English authorities led by Grenville at once claimed the former alternative, while the colonists were soon driven to accept the latter. It is interesting to note that the first plan of the colonists for the division of the field of taxation between two sets of legislative bodies has been substantially adopted and has proved entirely practicable in our own federal system, while the second plan of occupying the whole field of taxation themselves is the one now employed by the self-governing colonies whose relation to the British Empire is very much what the opponents of the Stamp Act and the Townsend Revenue Acts wished to establish. The leaders at this stage were Patrick Henry, under whose influence the Virginia House of Burgesses resolved that taxation by themselves or by persons chosen by themselves is the first attribute of Englishmen, and Samuel Adams in Massachusetts, who proclaimed that the imposition of taxes, direct or indirect, without representation, is unjust and illegal. To reach this conclusion, Adams appealed, as Otis had done before him, to "the true spirit of the constitution," that is to the living principle within it, which alone can make any constitution fit for the continued use of successive generations. Adams and Otis were true Americans in perceiving this, and its general recognition in England as well as in America since the revolutionary war has marked the development of the two great constitutions of the world.

The declaration by Parliament of its right to legislate for the colonies in all cases whatsoever, attracted little notice in the general rejoicing over the repeal of the Stamp Act. But as Parliament proceeded to put its claim in practice, suspending the New York Assembly, ordering the Massachusetts Assembly to rescind its circular letter, and aiming, as was understood, to annul the charters for the purpose of unifying the colonial governments, the colonists met the newly developed aggressive policy by advancing the claim that legislation as well as taxation could proceed only from a body in which they were represented. This was a further blow at the Parliamentary doctrine of virtual representation. The colonial assemblies now became the storm

centers in the gathering commotion. Twice was the Massachusetts Assembly prorogued, because it insisted on discussing the people's violated liberties. These two dissolutions are of the utmost importance, because they mark the beginning of a process which finally resulted in the entire disorganization of colonial government in America. One after another the assemblies were dissolved, and were temporarily replaced by provincial congresses, and these in turn by new State governments. These were very like the old ones, but differed in one essential feature which contained the germ of what is called congressional to distinguish it from parliamentary government. This is the erection of the executive, on one hand, into an active power in government, and, on the other, into a regulative force in controlling legislation. That the governor may not be tyrannical he must be elective, and thereby directly responsible to the people. This device was in the following period applied in federal as well as State government. Thus in a few years after the war the theory of actual representation, for which the revolutionary fathers contended, found an application which was not at first contemplated, and the national executive became a representative of the people in administration as completely as the Congressman in legislation.

C. H. SMITH.

*The Creeds and Platforms of Congregationalism.* By Williston Walker, Ph.D., Professor in the Hartford Theological Seminary. New York, Charles Scribner's Sons, 1893—8vo, 604 pp.

This work contains an exact reprint of the creeds of the Congregational Communion from Robert Browne's "Statement" in 1582 to the "Commission" Creed of 1883. The student is thus presented with an accurate edition of a series of documents of essential value in a not unimportant portion of ecclesiastical history. To collect these documents in authentic copies was no small task. But Professor Walker has done a great deal more. He has furnished all that is requisite, in the way of historical narrative and comment, for the elucidation of them. The amount of research involved in this portion of the work can only be appreciated by those who have themselves been laborers in the same or a similar field. The author's accuracy and good judgment are everywhere manifest. Particular subjects, like the "Half-Way Covenant," are treated with admirable correctness as well as condensation. Errors which have been widely diffused,



and have been sanctioned by good writers, are either silently corrected or distinctly confuted. The work is one of a class which, from the nature of the case, cannot look for a very wide circulation in the immediate future. But they long hold their place as authorities, and their authors are gratefully regarded by scholars who are assisted by them.

G. P. F.

*Die Handelspolitik Englands und seiner Kolonien in den letzten Jahrzehnten.* Von Dr. Carl Johannes Fuchs, a. o. Professor der Staatswissenschaften an der Universität Greifswald. [Schriften des Vereins für Socialpolitik, LVII.] Leipzig, Duncker und Humblot, 1893—8vo, x, 358 pp.

This is the last of the series of essays on the commercial policy of the principal states of the civilized world which the Verein für Socialpolitik began to publish last year, and it is in many respects the most interesting and valuable for American readers.<sup>1</sup>

The subject seems at first glance a barren one. As the author says in his opening sentence, "English commercial policy during the last decades has, properly speaking, no history." While other states have gone through many changing phases of policy, England has for over thirty years not deviated a hair's breadth from the principle of free trade. But even in England there have been various interesting problems, such as those raised by the sugar bounties; and there have been various shiftings of public sentiment, such as that shown in the fair trade movement. Moreover, if we turn to the colonies, to which nearly half of the present volume is devoted, we encounter the singular fact that, though Great Britain has adhered steadily to the policy of free trade, almost all of the self governing colonies have, since the end of the 70's, shown a decided tendency to adopt protection. Even New South Wales, which for many years had adhered to a policy of low duties, at last yielded to the general drift, and adopted a protective tariff in 1891. (p 213.)

The enquiry which the author makes into the complicated results of these conflicting policies, is unfortunately not very conclusive. In the first place, as he points out, the commercial statistics, even of Great Britain herself, are far from being accurate, and they are especially misleading owing to the fact that only values, not quantities, are declared to the custom house authorities. Thus the figures may show a falling off in the value of

<sup>1</sup> For a notice of the other volumes, see Yale Review for August, 1892, p. 229.



exports or imports during a period of falling prices, when there has in reality been an increase in the quantities. (p. 91.)

There is another source of error to which the author, though he occasionally mentions it, does not, it seems to us, give sufficient weight, viz., the movement of securities, the investment of capital, and the payment of dividends and interest. Such apparent anomalies, for instance, as the great excess of imports over exports in Victoria, during recent years, might perhaps be explained by the movement of capital. (p. 241.) And unless we are able at least approximately to gauge this movement, our statistics have comparatively little value.

The general conclusion which Professor Fuchs draws from the commercial statistics as they stand is that, while England's commerce has increased enormously under free trade, several nations pursuing a different policy show a still greater growth. (p. 121.) Thus, while England's share in the commerce of the world is still the lion's share, it is no longer as large a fraction of the total as it was in 1854. (p. 141.) This does not, however, prove that the free trade policy has been a failure. It merely shows that other countries have gradually become industrial states like England. Foreign commerce, moreover, is only a part of national economic life, and internal trade, production, and consumption are of equal or greater importance. These, however, do not appear in custom-house statistics, and are very difficult to gauge by any statistics. The author's conclusion is therefore somewhat negative.

In discussing the effects of the protective system adopted by the most prominent of the self-governing colonies, the author reaches an equally negative conclusion. In a number of cases the protective tariffs were followed by a reduction of foreign trade; but in some others, as in South Australia, New Zealand, Queensland, and the Cape Colony, they were not. (p. 226.) In general, England's share in the trade of her colonies is diminishing relatively to the share falling to intercolonial and foreign trade. This tendency has brought about a considerable movement looking towards a closer union of the different parts of the Empire, both commercial and political. The various plans for imperial federation are discussed in the last section of the book.

The final verdict of the author on the commercial policy of Great Britain is, that it has been, on the whole, a failure. Not

only have other states not followed its example, but many, as France and the United States, have been going further and further in the direction of high protection. The author thinks that a timely use of retaliatory duties against its rivals and of differential duties in favor of its colonies would have checked the extreme protectionism of other countries. (p. 314) But did German protection under Bismarck force France or the United States to reduce their tariffs? Has the Méline tariff in France brought Spain to terms? Is it not rather the history of most tariff wars, that each of the combatants tries to outdo the other, until both find the operation so costly that they make a compromise which might as well have been made at the outset, but which the tariff has postponed for years? It took thirteen years of progressive protection on the part of Germany and her neighbors to bring about the Central European treaties of 1892. And it seems to us that if England, instead of pursuing free trade, had tried to bring the United States to terms by levying a duty on our wheat or our cotton, tariff reform in our country would be postponed indefinitely.

It is true that free trade has not done what was expected by its promoters forty years ago. In fact, it has brought England into a curiously contradictory position. For, while it was claimed in the beginning that it would be a great benefit for England if all nations were to adopt free trade, it is thought now by some of the wiser heads that the one thing which England has most to fear is a low tariff, adopted by some of the most powerful of her competitors, as, for instance, the United States. But, though events have turned out differently from what was expected, we cannot but think that it has been a great advantage to England that she has not been called upon to play a part in the European tariff struggles of the last twenty years

H. W. F.

*A Brief History of Panics and their Periodical Occurrence in the United States.* By Clément Juglar, Member of the Institute. Englished and Edited by De Courcy W. Thom. New York, G. P. Putnam's Sons, 1893 —8vo, 150 pp.

It is not quite fair to M. Juglar to sever from its context the part of his book devoted to the United States, and treat it as a history of panics in our country. The author did not write a history of panics in the United States; he wrote a history of panics in Europe and the United States, in which the latter is

only an adjunct to the former. His knowledge of facts with regard to America is fragmentary; his generalizations as to the course of a panic are drawn from European experience, and it takes some violence to apply them to America. Look at his preliminary definition. "A Crisis or Panic may be defined as the stoppage of the rise of prices." This certainly cannot apply to the panic of 1884-5, nor to that of 1893; each of which was the culmination of a downward movement rather than the stoppage of of an upward one. The corresponding European panics, which antedated the American depression, may perhaps be brought under M. Juglar's definition; the American crisis cannot. The treatment of recent crises is hardly more adequate than is his definition. The events of the year 1884 and 1885 are described from the standpoint of the financial world only, as distinct from the industrial one. Only one sentence, and that an inaccurate one, is devoted to the railroad building and the duplication of manufacturing plant which characterized the years 1880-82, and of which the crisis was a necessary sequence. The symptoms of the panic are described in detail; the underlying causes are strangely neglected. The contrast with the treatment of the same subject in a book like Grosvenor's *American Securities* is a very sharp one. Even in financial matters M. Juglar's knowledge of American affairs is not that of a native. He speaks of the "enormous sum" of \$121,000,000 invested in railroads during the year 1873; not realizing that an amount which would be very large for France is hardly up to average for the United States. In the description of the panic of 1857, he fails to make clear distinctions between the banks of New York and those of the country as a whole—supposing, perhaps, that New York holds the same position in the American financial world as Paris in the French. As we said at the outset, it is unfair to M. Juglar to make too much of these errors and omissions; but when a fragment or series of fragments is made into an independent book, author and translator must expect to be criticised on that basis.

The translator has devoted much pains to his work, and has brought the separate fragments into a coherent whole with a good measure of success. But when he states on the title page that he has "Englished" the book, we cannot help noting that this word has two meanings, 1 "To translate into English," 2 "To cause to twist or spin, and to assume a more or less

sharply angular direction after impact ;" and that there are some instances where the second will apply quite as well as the first.

A. T. H.

Ripley, William Z. *The Financial History of Virginia, 1600-1776*. (Studies in History, Economics, and Public Law, iv, 1), New York, Columbia College, 1893.—8vo, 170 pp.

The economic and financial history of the American colonies is attracting more and more deserved attention. Among the various monographs which have of late added to our knowledge of this subject, Mr. Ripley's *Financial History of Virginia* is the most successful. The various topics which go to make up such a history are handled in a scholarly and interesting way. In the system of land-ownership, the slavery system, and the absence of large cities, the author finds the clue to the development of taxation in the colony. A land tax or general property tax, though favored by the small landowners, and adopted in all the northern colonies, gave way to a poll tax, favored by the large land-owners, and remained the chief item of colonial revenue down to the Revolution. In the contest between those who favored a land tax and those who favored a poll tax is seen the beginning of that sectional antagonism between the upland and the lowland counties which culminated in the subdivision of Virginia into two States.

Import duties never amounted to much ; on the other hand, export duties on tobacco were levied after the middle of the XVIIth century. The survival of feudal institutions in Virginia,—not peculiar to the South, as the author holds,—such as the payment of quit-rents, is touched on.

The most successful chapters are devoted to a careful study of the monetary history of the colony,—the immunity from paper money issues before 1755, projects for mints, foreign exchange, and particularly to the part tobacco played as a medium of exchange. An interesting parallel is established between recent currency legislation,—the silver laws and the sub-treasury schemes,—and the tobacco legislation of the colonial period. The producers of tobacco, like the producers of silver to-day, claimed government assistance to raise the price of their commodity. On the plea of scarcity of money, tobacco notes were issued, beginning with the first years of the XVIIIth century, on



the deposit of tobacco in government warehouses. These notes were of two kinds, and closely resembled our silver certificates and our treasury notes of 1890. This policy was adhered to till the formation of the Union. The notes never suffered depreciation, but were a "legal tender only in the immediate locality of the warehouse in which the tobacco was deposited." Moreover, it is to be noted that the commodity on which they were based was not fluctuating in the world's market, but was gradually rising in value; hence the comparative success of the scheme.

J. C. S.

*The Influence of the Sea Power upon the French Revolution and Empire, 1793-1812.* By Captain A. Mahan, U. S. N. Boston, Little, Brown & Co., 1892.—2 vols. 8vo, xx, 380, xvii, 428 pp

This work has a double interest, when we recall the professional standing of the author, and remember that his training from boyhood has particularly fitted him for the book he has just finished. To military men, the period covered by the author is exceedingly fascinating and instructive. The great Frederick is just disappearing; the deluge predicted by Louis XV. was about to burst over France and wash away the polluted dynasties of the Bourbons, to prepare the stage setting for the next act of the tragedy—the entry of the mighty Napoleon. It was during this period that the contest between England and France for supremacy at sea was settled in favor of England. Louis XVI. had built up the French navy, and the Revolution found it at least equal to that of England in training and efficiency, but it did not escape the bloody storm that swept over France with such terrible fury. Long and faithful service and ability were no longer requirements for command. The officers in the navy of Louis had been drawn from the titled classes, and were suspected of disloyalty to the republic. Patriotism, so-called, and fidelity to the republic were to govern in future. Discipline became a mere farce, and mutinies were common occurrences. Phillipe d'Orleans, Kersaint, and D'Estaing perished on the scaffold. A decree was passed authorizing the minister of Marine to fill the places of flag and other officers from any grade and without regard to existing laws.

The corps of trained officers was thus completely destroyed, and the enlisted men fared no better. Trained gunners and seamen were replaced by men of no experience or ability. The result was, of course, readily foretold, even when the French, by strategy or tactics, got the advantage of the English in position or numbers, they were readily beaten through their own inefficiency in serving the guns and handling their ships. Due to lack of money, the ships could not be repaired, and as the English held the channel, and hovered along the coasts, necessary naval supplies could not be obtained. In a few years the navy had reached such a low condition in material and moral that even the genius of the mighty Napoleon could not resuscitate it and put it in good fighting condition again. In the meantime the policy of England to obtain the mastery at sea and to keep it was rapidly developing, and culminated in the overthrow of the French navy. The French lost their rich possessions in the West Indies, the Newfoundland fisheries, their control in the Mediterranean, and with the failure of Napoleon's expedition to Egypt, due to the destruction of his fleet, they were obliged to give up any hope they may have had of regaining a foothold in the East Indies. When Holland formed an alliance with France, her colonies, notably that at Good Hope, were immediately seized by England, and became links in the great chain of Empire she was to stretch around the world.

The French, realizing that their massed squadrons were unable to cope successfully with those of England, adopted the plan of dispersing their ships, and scattering them abroad to prey on English commerce. They undoubtedly did much damage and captured many prizes, but this line of action was of no assistance to the French in their land projects, and of no value in opening up their ports for the reception of supplies, of which they were greatly in need; neither did it seriously retard the progress of the English towards the control of the carrying trade of the world. Providence seemed to favor the English. The expedition of Hoche to Ireland was baffled by the winds and waves, after it had safely passed a much superior British fleet without even being seen. The author finds much to criticise in the conduct and management of the British fleet at this time. It was seriously threatened by the demoralization of inactivity and love for the harbor, but was saved by the lashings administered by

those two men of untiring energy and heroic courage, St. Vincent and Nelson.

One of the facts brought into bold relief by the author is the enormous growth of English commerce during many years of constant warfare. Between 1792 and 1800 the commerce of Great Britain "increased by 65 per cent., while the loss by capture was less than  $2\frac{1}{2}$  per cent. on the annual volume of trade." The increase was obtained by shutting off neutral trade with the enemy and forcing it into her own ports; by colonial growth, and by the increased power of her navy, which gave her sufficient sea-power to enable her to make her own interpretation of international law, and to enforce it with great hardship and injustice to neutrals and manifest advantage to herself.

This work will undoubtedly be of great value in a technical way, to professional naval and military men, and has received a warm welcome at their hands both at home and abroad. Its technical value might, perhaps, have been increased by a longer discussion on comparative tactics, with the author's views at length on the probable changes in naval tactics in the next great combat, but the story of how the sea-power won, in the gigantic struggle of endurance between England and France, is clearly and delightfully told.

J. S. PARTIT.

*An Introduction to the Study of Political Economy.* By Luigi Cossa, Professor in the University of Pavia. Revised by the Author and translated by Louis Dyer, M.A., Balliol College. London and New York, Macmillan & Co., 1893.—xi, 587 pp.

Cossa's *Guide to the Study of Political Economy* has long been known to American students as the best short history of the science which we have. His *Introduction* is the same work expanded and brought down to date—not so short, but fully as good. When we consider how much has been written on economics during the last fifteen years, and how hard it is to keep track of it, the completeness of Cossa's knowledge and the substantial justice of most of his criticisms deserve the very highest praise. His treatment of Marshall is at once appreciative and discriminating. To Jevons he, perhaps, does a little less than justice; and the same exception might be taken to his treatment of Adolph Wagner. He devotes twenty-three pages to the

economic literature of the United States. There is little fault to find either with his statements of fact or expressions of opinion. Professors Jenks, Seligman, and Mayo-Smith are put into a group where they do not exactly belong; and Professor Bourne will be surprised to find himself classed as a pupil of Professor Dunbar. But these are trifles. The work of the translator is first-rate.

A. T. H.



## BOOKS RECEIVED.

- BASCOM, JOHN. *An Historical Interpretation of Philosophy*. N. Y., G. P. Putnam's Sons, 1893.
- BATES, KATHARINE L. *The English Religious Drama*. N. Y., Macmillan & Co., 1893.
- BRADLEY, F. H. *Appearance and Reality. A Metaphysical Essay*. London, Swan Sonnenschein & Co., 1893.
- BRYAN, ENOCH A. *The Mark in Europe and America*. Boston, Ginn & Co., 1893.
- CAMP, WALTER. *Walter Camp's Book of College Sports*. N. Y., Century Co., 1893.
- Catullus with the Pervigilium Veneris*. Edited by S. G. Owen. Illustrated by J. R. Wequelin. London, Lawrence and Bullen, 1893.
- CORNWALLIS, K. *The Conquest of Mexico and Peru*, prefaced by The Discovery of the Pacific. An Historical Narrative Poem. N. Y., Daily Investigator, 52 Broadway, 1893.
- COSSA, LUIGI. *An Introduction to the Study of Political Economy*. Revised by the Author and translated by Louis Dyer. London and N. Y., Macmillan & Co., 1893.
- DE GREFF, GUILLAUME. *Les lois sociologiques*. Bibliothèque de philosophie contemporaine. Paris, F. Alcan, 1893.
- DUTT, R. C. *Epochs of Indian History. Ancient India*. London, Longmans, Green & Co., 1893.
- FABIAN TRACT, 29. *What to Read*. A List of Books for Social Reformers, 2d Edition. London, Fabian Society, June, 1893.
- FOWLER, W. W. *The City-State of the Greeks and Romans*. London and N. Y., Macmillan & Co., 1893.
- Benjamin Franklin and the University of Pennsylvania*. Edited by F. N. Thorpe. Bureau of Education, Circular of Information, number 2, 1893. Washington, Government Printing Office.
- GOODNOW, FRANK J. *Comparative Administrative Law*. I. Organization. II. Legal Relation. N. Y., G. P. Putnam's Sons, 1893.
- HARKNESS, JAMES, and MORLEY, FRANK. *A Treatise of the Theory of Functions*. N. Y. and London, Macmillan & Co., 1893.
- HAZARD, CAROLINE. *Thomas Hazard Son of Robert, Called College Tom. A Study of Life in Narragansett in the XVIII Century*. Boston and N. Y., Houghton, Mifflin & Co., 1893.
- JOHNSTON, W. J. *An Elementary Treatise on Analytical Geometry*. Oxford, Clarendon Press, 1893.
- KNIGHT, WILLIAM. *Aspects of Theism*. N. Y., Macmillan & Co., 1893.
- LEHR, JULIUS. *Volkswirtschaftslehre Grundbegriffe und Grundlagen der Volkswirtschaft*. Leipzig, C. L. Hirschfeld, 1893.
- LEWIN, GEORGE H. *National Consolidation of the Railroads of the United States*. N. Y., Dodd, Mead & Co., 1893.
- LORIA. *Les bases économiques de la constitution sociale*, 2e édition. Trad. de l'italien par A. Bouchard. Paris, F. Alcan, 1893.

- LOWELL, JOSEPHINE SHAW. *Industrial Arbitration and Conciliation*. N. Y., G. P. Putnam's Sons, 1893.
- MACDONALD, ARTHUR. *Abnormal Man*, Being an Essay on Education and Crime and Related Subjects, with Digests of Literature and a Bibliography. Bureau of Education, Circular of Information, no. 4, 1893. Washington, Government Printing Office.
- MACH, ERNST. *The Science of Mechanics*. Chicago, Open Court Pub. Co., 1893.
- MERRIAM, GEORGE S. *Noah Porter*. A Memorial by Friends. N. Y., Charles Scribner's Sons, 1893.
- MÜLLER, F. MAX. *Three Introductory Lectures on the Science of Thought*. Chicago, Open Court Pub. Co., 1893.
- NICHOLSON, J. SHIELD. *Principles of Political Economy*. N. Y., Macmillan & Co., 1893.
- PILLING, JAMES C. *Bibliography of the Chinookan Languages*. Washington, Government Printing Office, 1893.
- POWELL, J. W. *5th Annual Report, Bureau of Ethnology, 1886-7*. Washington, Government Printing Office, 1893.
- RAWLINSON, GEORGE. *The Story of Parthia*. (The Story of the Nations Series). N. Y., G. P. Putnam's Sons, 1893.
- Report of the United States Commissioner of Education, 1889-90*, 2 vols. Washington, Government Printing Office, 1893.
- RITCHIE, DAVID G. *Darwin and Hegel*, with Other Philosophical Studies. London, Swan Sonnenschein & Co., N. Y., Macmillan & Co., 1893.
- RITTINGHAUSEN, M. *La législation directe par le peuple et ses adversaires*. Nouvelle édition, Bruxelles, J. Lebaigue & Cie, 1893.
- ROBERTSON, FREDERICK W. *Thoughts on God and Man*. Edited by J. B. Burroughs. N. Y., Hunt & Eaton, 1893.
- ROBINSON, S. V. *A Physician's Notes on Apostolic Times*. N. Y., Hunt & Eaton, 1893.
- ROMANES, GEORGE. *An Examination of Weissmannism*. Chicago, Open Court Pub. Co., 1893.
- RUSSELL, A. P. *Sub-Cœlum*. A Sky-Built Human World. Boston and N. Y., Houghton, Mifflin & Co., 1893.
- SCAIFE, WALTER B. *Florentine Life During the Renaissance*. Johns Hopkins University Studies in Historical and Political Science. Extra vol. xiv. Baltimore, Johns Hopkins Press, 1893.
- SCHAFF, PHILIP. *Theological Propædæutic*. A General Introduction to the Study of Theology. N. Y., Charles Scribner's Sons, 1893.
- SREDD, WILLIAM G. T. *Orthodoxy and Heterodoxy*. N. Y., Charles Scribner's Sons, 1893.
- SHAW, BERNARD. *The Impossibilities of Anarchism*. Fabian Tract, 45. London, Fabian Society, June, 1893.
- SIDGWICK, ALFRED. *The Process of Argument*. A Contribution to Logic. London, A. & C. Black, 1893.
- STAMMHAMMER, JOSEPH. *Bibliographie des Socialismus und Communismus*. Jena, Gustav Fischer, 1893.
- STEINER, BERNARD C. *History of Slavery in Connecticut*. Johns Hopkins University Studies in Historical and Political Science, 11th Series, ix-x. Baltimore, Johns Hopkins Press, 1893.

- STEVENS, THOMAS. *Madoc. An Essay on the Discovery of America by Madoc Ap Owen Gwynedd in the XII Century.* London, Longmans, Green & Co., 1893.
- SULLIVAN, J. W. *Direct Legislation by the Citizenship through the Initiative and Referendum.* N. Y., True Nationalist Pub. Co., 1893.
- TIFFANY, O. H. *Pulpit and Platform. Sermons and Addresses.* N. Y., Hunt & Eaton, 1893.
- TUPPER, CHARLES L. *Our Indian Protectorate. An Introduction to the Study of the Relations between the British Government and its Indian Feudatories.* London and N. Y., Longmans, Green & Co., 1893.
- WALKER, B. E. *Banking in Canada.* Paper read before the Congress of Bankers and Financiers, Chicago, June 23d, 1893.
- WALKER, WILLISTON. *The Creeds and Platforms of Congregationalism.* N. Y., Charles Scribner's Sons, 1893.
- WELD, L. G. *A Short Course in the Theory of Determinants.* N. Y. and London, Macmillan & Co., 1893.
- WILSON, WOODROW. *An Old Master and Other Political Essays.* N. Y., Charles Scribner's Sons, 1893.
- WINDELBAND, W. *A History of Philosophy.* N. Y., Macmillan & Co., 1893.
- WINSLOW, HELEN M. *Salome Shepard, Reformer.* Boston, Arena Pub. Co., 1893.
- WOLFF, HENRY W. *Essais de crédit populaire en Angleterre et en Écosse.* Menton, Impr. Co-oper. Mentonnaise, 1893.
- WOOD, C. J. *Survival in Christianity. Studies in the Theology of Divine Immanence.* N. Y., Macmillan & Co., 1893.

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COMMENT.

*Some Defects in our Legislative Machinery: The Decline of Individual Responsibility in the United States: Some Notes on the Winter's Distress.*

THE financial work of the present Congress has brought into painful prominence some serious defects in the machinery of our government. It has emphasized, first of all, the great evil of allowing so long a time to elapse between the election of a Congress and the beginning of its legislative duties.

The majority of the present Congress were elected on a platform adopted nearly eighteen months before the beginning of its regular session. They were elected after a very full discussion of the merits of protection, and it will hardly be denied by any party that this election implied a condemnation of the system. No other problems of finance were prominent in the discussion, and our country had enjoyed a large surplus for so long a time, that few people considered seriously the questions that might arise, if the government should find itself face to face with a deficit.

In the period which elapsed, however, between the election of the Congress and the beginning of its regular session, the financial situation had entirely changed. The surplus had been converted into a deficit, and the most pressing problem was to provide for this deficit. But Congress, however much it might desire to carry out the mandates of its constituents, had no mandate on the very subject of most importance. This would not be a difficult problem in



a country with as great natural resources as our own, if there were a well recognized system of leadership, but a second fault of our system now made itself felt. The apparent intention of the law is that the Secretary of the Treasury shall occupy the position of financial leader of the government. Certainly the statutes which require him to present plans for improving and increasing the revenue from time to time, and to give information to Congress with regard to the modes of raising money required to meet the public expenditure, imply that function. And there is no other official with regard to whom anything of this kind is implied. Yet, with the great development of the committee system, leadership has, as we all know, become divided. The Secretary of the Treasury still has the right to make suggestions, but it is the Committee of Ways and Means who frame legislation, and manage the passage of bills. We have, therefore, the anomaly that, though in this case the Secretary of the Treasury and the majority of the Ways and Means Committee and of Congress all belong to the same party, there has been little coöperation between them.

The Secretary of the Treasury asked that he be given power to issue bonds, but Congress refused to give him this power specifically, and forced him to act under the provisions of the Resumption Act of 1875. The Secretary recommended that the expected deficiency in taxes on consumption be made up by means of a tax on the incomes of certain corporations. The Ways and Means Committee disregarded this recommendation, and brought in a general income tax bill, laying a tax on all incomes of \$4,000 or over. In this state of things it is not surprising that the full bearing of this measure does not seem to be fully understood by either the majority or the minority in Congress.

To introduce direct taxation, otherwise than as an emergency measure in time of war, is in reality a much more radical step than to pare down the protective features of the tariff, for it has been the almost uniform policy of the federal government since its establishment to draw the bulk of its revenues from taxes on consumption, and to leave to the States the direct taxation of property and income.

For many reasons which need not here be specified, this system is a good one and lies at the basis of the system of taxation of the German Empire. Yet the majority report on the tariff bill alludes in a merely casual manner to the introduction of some such measure as a means of making good the deficiency in the customs, and the minority are equally silent as to the remoter bearings of the law. They confine themselves to the defense of the protective system and to a criticism of the majority for not having gone further in abolishing that system. The report on the income tax bill also ignores the very existence of State taxation on corporations and property, and argues as if these sources of wealth paid no taxes of any kind.

No financier, with any regard for his own reputation, would be willing to be responsible for an entirely new departure in utter disregard of existing conditions. But where responsibility is divided, it is not surprising that the result should be financial chaos.

It is a rather discouraging feature in our present political system that the success or failure of any party in an election is determined so largely by the question whether the times are good or bad. If they are good, the administration will win; if they are bad, the opposition will win. So far as the good or bad times are dependent upon the acts of the party in power, this is of course fair. But, in the majority of instances, the national prosperity is largely due to causes outside of the control of Congressional legislation; and even in those cases where legislation has a great deal to do with it, we are never sure that it is the legislation of the last two years or last four years which is really to blame.

Under a despotic government which has years of continuous power in its hands, the test of prosperity is not a wholly unfair one. Such a government assumes the responsibility for national comfort and well-being; and if it fails to meet its responsibility in this respect, whether by its own fault or not, it has no reason to exist longer. A European monarch, who claims to provide for the happiness

of his people, must expect to be held responsible for their unhappiness, even if it be due to famine and pestilence. But in the United States we have, until recently, prided ourselves on having a better idea of the relation between the government and the people than they have under a despotism. We have been taught that the people themselves were primarily responsible for their own happiness or misery; and that while the government could do something to help them, it could not take this primary responsibility off the shoulders of the freemen themselves. Of late this healthful sentiment has changed. The freeman's view of the functions of government has given place to that of the serf. We are being taught by many speakers that wages depend not upon the efficiency of the laborer, but upon the action of Congress. We are given masses of special legislation to promote the happiness of all sorts of people; and we are by implication telling these people that, if they are not happy, it is the fault of Congress, and that the remedy is to be found in seating a different man in Congress, who will pass a different kind of law.

The course of recent elections shows how widely these views have taken root. We have gone a great way towards adopting despotic ideas of what a government can do and ought to do. We have fostered among producers and traders of every class a feeling of dependence on the government instead of on themselves. When brought up in this way, we are terribly liable to panic. We had a currency panic last summer, and a tariff panic last fall. In each case the action of the business community was wholly disproportionate to the grounds for alarm. People locked up their gold in the one case, and locked up their mills in the other case, because government action had accustomed the business community to an attitude of servile dependence upon Congress, and the community allowed itself to be carried away with fear as to what Congress might or might not do. It was as impossible for any individual or small number of individuals to stop the panic as it is for a few individuals to rally an army whose morale has been impaired by too servile dependence upon irresponsible leaders. If America

is to remain a free country, the community must learn some much needed lessons as to the responsibilities of freemen.

The hard times of the present winter are likely to furnish valuable tests of our present agencies, both public and private, for relieving the poor. The winter is not yet over, and it is therefore too early to pass any judgment upon the winter's work, even for a limited area. It is still more out of the question to obtain any general results for the United States. It is to be hoped that this will be done in an exhaustive and comprehensive manner by experts later in the year. It may, however, be interesting, even at this early date, to ask what we have learned down to the present time, from the experience of a single city.

New Haven may be regarded as an average town for this purpose. It had, at the last census, a population of 81,298, and stood 35th in the list of cities ranked according to population. It is a manufacturing town with well diversified industries. It is, therefore, not very likely to be greatly affected by great prosperity or adversity in a single branch of business. There have been no exceptional troubles, such as strikes or lock-outs, nor have there been any great failures of manufacturing establishments. The depression of the winter may, therefore, be said to be due to general, not to local causes, and New Haven may thus be regarded as a typical city of moderate size. It has not the slums and the consequent very difficult problems of great cities of over half a million, but it has a fairly dense population and, therefore, the problems that confront cities of the second rank.

Some effort has been made to find out just how many people have been thrown out of work as the result of the crisis. The estimate published by Mr. Closson, in the last number of the *Quarterly Journal of Economics*, was 5,000. This was based upon a statement of the mayor of the city, made last fall, probably during November. The official in question is himself a large manufacturer and therefore familiar with trade, and he would have no reasons for exaggerating the distress, but rather the reverse. Nevertheless a census of the unemployed, made by the police



early in January, gives a total of 2,886, or but little more than half of the former estimate, at a season of the year when the lack of employment was probably quite as great as in November. This discrepancy shows how difficult it is to get exact figures on such a subject, for the chances are that the figures of the police census are too great rather than too little. In obtaining their data, the policemen had no instructions to make any discrimination between those who were out of employment as the consequence of exceptional causes and those who were usually idle during the winter months. It is impossible to tell how many of the latter classes were included in these figures, and it is also impossible to tell how many escaped the attention of the police altogether. It is, therefore, not easy to ascertain the magnitude of the problem by simply looking at the number of the unemployed. It is, however, possible to ascertain approximately, how far the means of relief are adequate.

A number of facts have been set forth as indications that there must be much distress. The number of unemployed alone would indicate that there must be much suffering. During the fall a baker and a butcher adopted, for a few weeks, the policy of giving away bread and meat to all comers during certain hours of the morning. The number of applicants for this dole was very large. A benevolent restaurant keeper offered to feed a thousand people on New Year's Day, and his restaurant was crowded. One of the newspapers chronicled the fact that many people sent their plates back for three helpings, and considered that to be conclusive proof of the state of famine in which they found themselves. As a result of these and other indications of distress unusual efforts have been made by private persons, charitable institutions, churches, and the town for relieving or giving work to the suffering. The contributions to the charitable societies have been unusually large, some of the newspapers have made special collections to relieve the distress, and the town has not only granted outdoor relief more freely than usual, but has established a wood-yard in order to give work to the able-bodied unemployed. It is not easy to get at the amount distributed by the several churches.

The Organized Charities Association has, however, probably handled a large part of the money given by private persons, since the newspapers have made it their disbursing agency for funds collected by them. This society, like others of its class, has, by means of its card system, unusual facilities for knowing the merits of applicants for aid. But the very fact that it keeps a record might, it was thought, prevent many worthy people from applying, lest they should be considered paupers. It was, therefore, provided that those who applied for the special relief fund should not have their names entered in the usual manner, but that a memorandum should be kept to aid the committee in distributing funds, and the names should not in any way be accessible to the public. Moreover, a special effort was made to ferret out people who might be in distress, yet might be deterred by a feeling of pride or self-respect from applying for public charity. Notices were put in the papers inviting people to give to the society the names of any of their neighbors or acquaintances who might be in distress, and it is believed that the existence of the fund was very widely known throughout the whole city. The following table shows in a condensed form the work of the society during the past three months of the present winter, compared with the corresponding months of last winter:

Persons applying for aid,	Residents,		Non residents.	Money expended directly
	Old cases.	New cases.		
Nov., '92, to Jan., '93.	223	107	1161	\$ 344 68
Nov., '93, to Jan. '94.	363	266	3353	1013 87
Increase.	140 [62%]	159 [148%]	2192 [188%]	669.1 [194%]

It will be noticed that the non-residents, or tramps, show the most rapid rate of increase. What this means it is not easy to say. New Haven has the reputation of being a comfortable sojourn for travelers of this description, and it is probable that many have been attracted to the City of Elms by its good name. The figures may also mean that an unusually large number of persons who are on the dividing line between the steadily employed and the tramp may have been obliged to take to the road during the winter. The exceptional character of the present winter is seen more

clearly in the increase of new resident cases by 148% and the increase of 194% in the amount expended directly, as distinguished from relief given in the form of work in the wood yard. But though the relative increase in both these items is great, the absolute figures are small compared with the number of persons supposed to be out of work. Nor is the amount expended by the town authorities excessive. The outlay for outside poor has increased from \$4,688.94 in the three months from November to January of last winter, to \$5,065.03 during the same months of this winter, or \$376.09. The amount paid in wages at the wood yard, during the first six and a half weeks of its history was \$249.41.

If many people are unemployed, and at the same time the demands made upon public and private charity are small, it must be, either that people have savings of their own upon which they draw, or that they are helped by their friends. To what extent the latter is done can be only conjectured. Those who labor among them say that the poor always receive a great deal of help from those who are but little better off than themselves. The savings banks, however, indicate something with regard to the draft that has been made upon their savings by depositors. These figures are, of course, not conclusive, and must be used with caution. They are, however, not without their significance. Through the courtesy of the officers of the New Haven savings banks we are able to give month by month the deposits and withdrawals of all of the savings banks of New Haven. For the sake of simplicity the cents are omitted.

## 1892-93.

	Deposits.	Withdrawals.	Excess of Deposits.	Excess of Withdrawals.
May,	\$262,953	\$303,010		\$40,057
June,	481,247	228,070	\$253,177	
July,	403,620	600,611		196,991
August,	324,047	385,503		61,456
September,	448,545	338,367	110,178	
October,	349,615	307,339	42,276	
November,	312,317	277,336	34,981	
December,	429,941	268,067	161,874	
January, 1893,	539,089	629,111		90,022
	<u>\$3,561,374</u>	<u>\$3,337,414</u>		

## 1893-94.

	Deposits.	Withdrawals.	Excess of Deposits	Excess of Withdrawals.
May,	\$271,471	\$363,810		\$ 92,339
June,	425,406	352,469	\$ 72,937	
July,	349,838	981,265		631,427
August,	136,970	257,495		120,525
September,	239,748	338,961		99,213
October,	219,444	429,371		209,927
November,	227,678	344,876		117,198
December,	338,008	194,736	143,272	
January, 1894,	510,952	713,739		202,787
	\$2,719,515	\$3,976,722		

These figures show that during the seven months from July, 1892, to January, 1893, there was an excess of deposits over withdrawals of \$840, while for the corresponding months of 1893-94 there was an excess of withdrawals of \$1,237,805. These withdrawals, although large in the aggregate, only amounted to about  $\frac{1}{3}$  of the total deposits June 30th. Moreover, a large part of the amount withdrawn was probably due to the panic, as will be seen by the fact that during the month of July alone nearly \$1,000,000 were taken out, and the excess of withdrawals over deposits was \$600,000. The falling off in withdrawals during August and September was due to the fact that the savings banks took advantage of their right to require three months notice, though even during that period they took pains to accommodate people who really needed the money. Their business can not, therefore, be said to have reached its normal state until November or December. In November the excess of withdrawals was a little over \$100,000, while in December there was an excess of deposits of \$143,000.

In interpreting these figures it must be remembered that the withdrawals were not all used for the purpose of paying running expenses. Many of them were made for the purpose of investment, which was stimulated by the fact that the savings banks found themselves obliged to cease loaning money. In many cases, therefore, a would-be borrower who could not obtain loans at the banks could get some of his acquaintances to withdraw their deposits and loan him



the money. Some of the withdrawals are, therefore, in reality disguised loans. On the other hand it is certain that most of the deposits were made by the class of persons for whom savings banks were established. For the price of securities was so low that few investors would be tempted to put their money into savings banks for the sake of the income. We do not know to what extent the withdrawals were made by the unemployed, nor do we know how large a portion of the withdrawals were reinvested. If the maximum number of the unemployed was 3,000, and if the aggregate amount drawn from the savings banks had been evenly distributed among them, the sum coming to each one would have been about \$400, or \$2.50 a day for every working day during six months. We can, therefore, afford to make large allowances for amounts invested, and for amounts belonging to classes not affected by the hard times, and still leave a very considerable sum which probably directly or indirectly helped to tide over the winter's idleness.

These figures go far towards explaining the comparatively small drafts made upon the charitable agencies of the city, and show why it is that they have thus far been sufficient to prevent extreme distress.

Finally, it is significant that the aggregate withdrawals for December, 1893, and January, 1894, were less than the aggregate withdrawals for December, 1892, and January, 1893. The hard times are seen in a falling off of deposits, rather than in an increase of withdrawals.

## THE LAW AND THE POLICY FOR HAWAII.

FOR more than two generations the history of the minor states on this continent has been kaleidoscopic. Revolution has followed revolution, monarchy has followed republic, and republic monarchy; while all too frequently from a congenial soil has sprung that poisonous growth, the Dictator. It is not safe to draw too broad conclusions hastily, and certain exceptions occur to everyone. But, on the whole, the chaotic politics of Central and South America lead one to question the genius of the Latin races for self-government; they go far to prove that no magical potency lies in a republican form of government. It is human character, not political form, that tells in the stability of institutions. An incidental result of these frequent political changes has been to oblige the United States accurately to define its diplomatic position in view of them, and to lay down rules for the recognition of new governments. Its usage in this regard may be considered settled. It is clearly stated in a dispatch of Mr. Livingston's, Secretary of State, to Sir Charles Vaughan, April 30th, 1833: "It has been the principle and the invariable practice of the United States to recognize that as the legal Government of another nation which by its establishment in the actual exercise of political power might be supposed to have received the express or implied assent of (the) people."

To show the application of this principle to revolutionary changes similar to the recent overturn in Hawaii, several examples are selected from recent state papers. In his third annual message, 1883, referring to the contest just terminated between Bolivia, Chili, and Peru, President Arthur concludes: "When the will of the Peruvian people shall be manifested, I shall not hesitate to recognize the Government approved by them." And again, Mr. Frelinghuysen to Mr. Logan, March 17, 1884, declares: "The Department of State will not recognize a revolutionary Government claiming to represent the people in a South American State until it is established by a free expression of the will of that people."

Similarly President Hayes states—first annual message, 1877:—"It has been the custom of the United States, when such (revolutionary) changes of government have heretofore occurred in Mexico, to recognize and enter into official relations with the *de facto* Government as soon as it shall appear to have the approval of the Mexican people, and should manifest a disposition to adhere to the obligations of treaties and international friendship." A single instance more, Mr. Seward to Mr. Culver, Nov. 19, 1862, in the matter of Venezuela. A revolutionary Government is not to be recognized until it is established by the great body of the population of the state it claims to govern.

This rule represents not only the usage of this country in the matter of recognition, it is also in accord with the principles of International Law. All states are equal. Each state may determine its own form of government, may change it at will. The government *de facto* is the government *de jure*. That is a government *de facto* which is capable of insisting on the rights and fulfilling the duties of its state. Such capacity will spring from the undoubted expression of the will of the people. Recognition, before proof of such popular backing is furnished, is premature. It assumes a fact which is not yet manifest. With these simple, well established, rules in mind, we are in a position to judge of the propriety of the early diplomatic moves in the Hawaiian question now confronting us. The position of a queen in the Hawaiian Islands is as legal as that of an Emperor in Russia. The personal character of that queen does not affect the legality of her government. A change of the constitution under which she governs is an internal question solely. Early in the present year there occurred a revolutionary outbreak in Honolulu. A new government was set up calling itself provisional. What was the attitude of the United States towards it? Was its traditional usage observed? On the contrary, amidst the conflicting statements of fact, we can at least make sure of this. Before the people of Oahu had a chance to pronounce upon their desire for the change, before the other islands could even hear of it, before the new régime could demonstrate its capacity for fulfilling the

obligations of the state, before it had gained possession of all the government buildings, and proved its power, its recognition was granted by the United States. This action was premature; it was contrary to our usage in similar cases; it was in the highest degree improper. That it was soon followed by similar recognition by the representatives of the other states which maintain diplomatic relations with Hawaii does not excuse it. For, in the first place, our recognition unquestionably gave the new government a standing which it might not otherwise have had, and, again, recognition by one state is apt to be speedily followed by the recognition of other states, lest they suffer in influence with the new government. Emphatically it is the first step which counts. It will be noticed that no mention is made of the charge that the avowed sympathies of the United States Minister, and the landing of marines, nominally to preserve order, assisted in effecting this revolution. For the latter act there was a precedent at the time of the accession of King Kalakaua. Moreover, the troops had orders to take no part in the contest, but merely to protect property. Into the questions of veracity raised by Mr. Blount's report and Mr. Stevens' denials, as well as into the question of motive in landing marines, for the purposes of the present argument it is not necessary to go. The hasty recognition of the provisional government by the United States was wrong; if it was the sequel of a conspiracy hatched by Mr. Stevens, it could be no more than wrong, more scandalous it is true, but in nature similar. This closes the first act in the little drama.

The second act is now on the stage. Here we find a sovereign and independent state, calling itself a provisional government, that is, organized provisionally to secure certain objects. What these objects were, is best stated in the proclamation of the revolutionary committee, issued January 16th, 1893. "The Hawaiian monarchical system of government is hereby abrogated. Provisional government for the control and management of public affairs and the protection of public peace is hereby established, to exist until terms of union with the United States of America have been negotiated



and agreed upon." What is the status of this government in the eye of International Law? Does its provisional character make it any the less a sovereign state? Granting that its origin was owing to a wrongful act on the part of the United States, is its subsequent legality impaired? Both of these questions must be answered in the negative. The intervention of France in our Revolutionary War was technically illegal, was an act of war, but the recognition of the United States was not thereby invalidated. Our recognition of Texan independence was wrong, in being likewise premature, but no one questioned the legality of the Texan status. Not only our recognition of the new government in Hawaii, not only its recognition by other states, but also every subsequent act proves its sovereignty. We have accredited a minister to it, we have received a minister from it. Nor does its avowed provisional character alter our duties or its rights. If a government is organized to secure certain objects, who shall decide when and whether those objects are achieved or are impossible, or what other objects shall succeed them? Is the dictum that the objects for which this provisional government was formed have proved nugatory, and that, therefore, *ipso facto* it has lapsed, and the former government reverts, one which it is competent for any other than itself to pronounce? Surely not, otherwise its sovereignty would be a very qualified article. What this new government shall do with its own, what it shall develop into, whether it shall withdraw in favor of the deposed Queen, or form itself into a permanent republic is a matter purely for internal decision.

The recognition of a provisional government is no new thing. It was made in the case of Costa Rica in 1868. The "National Defense Committee" was recognized in 1870 as the Government of France. The Calderon Government was recognized in 1881 as the "existing provisional Government" of Peru.

When we ask, then, what should be our attitude towards the provisional government of Hawaii, if we observe our own usage and the rules of International Law, there can be but one answer. Its rights are the same, our relations to it

are the same, as in the case of its predecessor. To restore the Queen by intervention would be a fresh wrong. Any forcible interference in the affairs of Hawaii, even to insist on a plebiscite whose result should determine in whose hands the government shall reside, would be illegal. For Hawaii is a sovereign state. One wrong cannot be cured by another. Our duty is simple. It consists in keeping our hands off.

In international relations, questions of policy must be argued on different lines from questions of law. While the law is or should be simple, capable of precise statement, a nation's policy is the result of a complexity of motives, of facts which of necessity may not have been brought clearly into view. To attempt to define the proper policy for the United States to pursue towards Hawaii, then, is to tread on more uncertain ground. Yet even here we have a former usage to guide us; to change this should require justification.

In a dispatch of Mr. Webster's, Dec. 19, 1842, our policy towards Hawaii was stated as follows. "The United States have regarded the existing authorities in the Sandwich Islands as a Government suited to the condition of the people and resting on their own choice; and the President is of opinion that the interests of all commercial nations require that that Government should not be interfered with by foreign powers. Of the vessels which visit the islands, it is known that the great majority belong to the United States. The United States, therefore, are more interested in the fate of the islands and their Government than any other nation can be, and this consideration induces the President to be quite willing to declare, as the sense of the Government of the United States, that the Government of the Sandwich Islands ought to be respected; that no power ought either to take possession of the islands as a conquest or for the purpose of colonization, and that no power ought to seek for any undue control over the existing Government, or any exclusive privileges or preferences with it in matters of commerce."

In his message a few days later President Tyler deemed it "not unfit to make the declaration that [this] Government seeks no peculiar advantages, no exclusive control over the

Hawaiian Government, but is content with its independent existence, and anxiously wishes for its security and prosperity."

Developing this idea, Mr. Legaré wrote Mr. Everett in 1843, to the effect that the Hawaiian Islands bore such peculiar relations to ourselves that we might even feel justified, consistently with our principles, in interfering by force to prevent their falling (by conquest) into the hands of one of the great powers of Europe. And in 1850, suspecting French designs upon the Sandwich Islands, Mr. Clayton wrote, that their situation and "the bonds commercial and of other descriptions between them and the United States are such, that we could never with indifference allow them to pass under the dominion or exclusive control of any other power. We do not ourselves court sovereignty over them."

The following year Mr. Webster reiterated the same policy in an admirable dispatch, disclaiming the desire "to exert any sinister influence over the councils of Hawaii" and expecting "to see other powerful nations act in the same spirit." "This Government still desires to see the nationality of the Hawaiian Government maintained, its independent administration of public affairs respected, and its prosperity and reputation increased." This was after an intrigue of the French Commissioner in Hawaiian affairs had come to light. With a single exception all our state papers alluding to this topic, the messages of our Presidents, the dispatches of our Secretaries of State, bear witness to the same policy of independence for Hawaii, an independence free from the interference of foreign states, uncontrolled by our own.

This one exception is a dispatch of Mr. Marcy in 1853. In September he had written "While we do not intend to attempt the exercise of any exclusive control over them, we are resolved that no other power or state shall exact any political or commercial privileges from them which we are not permitted to enjoy, far less to establish any protectorate over them."

But by December he seems to have changed his mind, and writes "I do not think the present Hawaiian Government can long remain in the hands of the present rulers, or under



the control of the native inhabitants of these islands, and both England and France are apprised of our determination not to allow them to be owned by or to fall under the protection of these powers or of any other European nation. It seems to be inevitable that they must come under the control of this Government, and it would be but reasonable and fair that these powers should acquiesce in such a disposition of them, provided the transference was effected by fair means." This was but a passing idea, of which nothing came, and in 1868 Mr. Seward wrote that "the public mind in the United States was not in a condition to entertain the question of the annexation of the Sandwich Islands." Mr. Blaine's published correspondence conveys repeatedly the same impressions.

This practically uniform policy towards Hawaii, jealousy of its possible control by some other power, while not seeking to alter its independent status ourselves, appears in the Reciprocity Treaty of 1875. After arranging for the free interchange of certain specified products by the two countries, Article IV. stipulates as follows: "It is agreed on the part of His Hawaiian Majesty, that, so long as this treaty shall remain in force, he will not lease or otherwise dispose of or create any lien upon any port, harbor, or other territory in his dominions, or grant any special privilege or rights of use therein, to any other power, state or government, nor make any treaty by which any other nation shall obtain the same privileges, relative to the admission of any articles free of duty, hereby secured to the United States."

Bearing in mind the policy thus described and witnessed to, we are ready to ask if there is anything in the present situation in Hawaii to necessitate a reversal of this policy.

The population of the Hawaiian Islands has a very large foreign admixture, outnumbering the natives in the proportion of three to two. This is chiefly Portuguese, but the wealth and trade are largely in the hands of the Americans. Through the efforts of American missionaries the island population was christianized. Now, sixty per cent. of its inhabitants attend church regularly, while ninety-five per cent. can read and write. Their government has been a constitutional monarchy. The foreign element showed its power in



1887 by forcing a new constitution more favorable to itself upon the crown. The queen, recently deposed, attempted the abolition of this constitution, but drew back before the storm which her action created. Distrusting her, and adverse to certain government measures relating to the opium traffic and the Louisiana lottery, the American element overthrew the Queen, and set up a government of its own, with the avowed object of annexation to the United States. The annexation idea was acceptable to President Harrison, and a treaty to secure that object was signed. Before it was ratified by the Senate, however, came the change of administration and recall of the treaty.

Now it is noteworthy that neither party in Hawaii seems hostile to the interests of this country. The recent Queen referred her cause to this government; the revolutionary party desired the closest possible connection with it. Moreover, both parties seem to promise reasonably well to observe the obligations of state towards the United States. The monarchy can show the education and peaceful temper of its native population, together with its fifty years' record of creditable national life and treaty observance. The provisional government represents, it is said, probably with truth, the wealth, intelligence, and enterprise of the foreign element. Whichever faction holds the mastery of affairs, there seems no menace to this country's interests. If those interests are threatened, we have the treaty of 1875 to fall back upon. If that treaty should be abrogated, we have a settled policy, in line with the Monroe doctrine, to appeal to. The conclusion is irresistible, that the trade relations between Hawaii and this country are so strong, the established policy of this country so well understood, that its interests are in no danger whatever.

Nor does the annexation of the Hawaiian Islands seem to promise great material advantage. Annexation of territory beyond sea is not looked upon with favor by our people. This was shown in the cases of Cuba and San Domingo. Already we have free commercial intercourse with Hawaii; nine-tenths of its exports come to the United States; eight-tenths of its imports are from our shores. What profit

would this country reap from annexation, commensurate with the responsibilities and burdens which it must assume? The real and only advantage from annexation would be gained by the Islands themselves. In a question of state policy we must consider our own interests, not those of others.

If then our rights are not menaced, our self-interest not specially appealed to, why should we go counter to our established policy? There exists no sufficient reason. While fostering our trade relations in every legitimate way, both law and policy demand that we keep our hands off Hawaii.

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## THE ECCLESIASTICAL TREATMENT OF USURY.

**I**N considering the history of usury, it is necessary to bear in mind that the word in its ecclesiastical sense does not mean exorbitant usance for the forbearance of money, but any charge or profit whatsoever arising from the loan of money or other article of value, however moderate may be such charge or profit.

There is ample scriptural warrant for the prohibition of all such gains. The Hebrew lawgivers strictly commanded that all loans should be made without the exaction of increase. In the New Law there is less insistence on this, evidently because it was accepted as a matter of course in the precepts which inculcated the brotherhood of mankind and the principles of universal kindliness.<sup>1</sup> Naturally the early Fathers condemned it with a unanimity which renders special reference superfluous, while it is significant as showing how ineradicable was the practice, and how fruitless the efforts of repression. The earliest codes of discipline tell the same story. The so-called Apostolic Canons decree deposition for bishop, priest or deacon who will not abandon it.<sup>2</sup> The council of Elvira permits a single warning to a layman, when, if he repeats the offence, he is to be expelled from the Church.<sup>3</sup> The council of Nicæa deplores the fact that many clerics lend money at one per cent. a month, and corn to be returned with fifty per cent. increase, wherefore all who seek such gains are to be deposed from their grades.<sup>4</sup> Of course the usurer was deemed ineligible to ordination, but Basil the Great tells us that if he will abandon his avarice, and give all his gains to the poor, he may be admitted to the priesthood.<sup>5</sup> Successive popes and councils of the follow-

<sup>1</sup> Exod. xxii, 25.—Levit. xxv, 35-7.—Deut. xxiii, 19-20.—Ps. xiv, 5.—Prov. xxviii, 8.—II. Esdras v, 11.—Matt. v, 42.—Luke vi, 35.

<sup>2</sup> Canon. Apostolor. xliij.

<sup>3</sup> Concil. Eliberitan. ann. 313, c. xx.

<sup>4</sup> Concil. Nicæn. I, ann. 325, c. xvij. Cf. C. Laodicens. c. ann. 350 c. iv ; C. Carthag. III, ann. 397 c. xvj.

<sup>5</sup> S. Basil. Epist. Canon. I. can. xiv.

ing centuries repeat these and similar injunctions with an iteration which shows how steadfastly the Church carried on the endless and fruitless struggle. Their utterances were embodied in the collections of disciplinary canons and in the penitentials, and furnished ample material to guide the priest in dealing with his penitents.<sup>1</sup>

When in the twelfth century canon law began to take a definite shape, Gratian collected a store of extracts from the Fathers and councils to show how impious is usury, that the profits of usurers are not to be accepted as alms, and that usurers are not to be received to penance without making restitution of their gains.<sup>2</sup> Alexander III was unremitting in his efforts to suppress the evil, and in 1179, under his impulsion, the third council of Lateran deplored that it was increasing everywhere, and that men devoted themselves to it exclusively, as though it were lawful; wherefore all such offenders are to be deprived of communion and of Christian burial, and their money is not to be accepted in oblations, while priests not enforcing these rules are to be suspended until they repay what they may have received, and render satisfaction at the discretion of the bishop.<sup>3</sup> As this council

<sup>1</sup> Reginon. de Discipl. Eccles. Lib. I. c. 221-5, Lib. II. c. 435.—Burchardi Decret. Lib. II. c. 119-27.—Ivon. Decret. P. vi. c. 65-6. The penance for usury was of three years' duration, the first of which comprised fasting on bread and water.—Pœnitentiale Pseudo-Bedæ c. xxxix, § 2.—Pœnit. Pseudo-Roman. c. vii. § 3.

<sup>2</sup> Gratian. Decret. Caus. xiv, Q. 3-6.

<sup>3</sup> Concil. Lateran. III, ann. 1179, c. xxv.

However ineffective may have been the efforts to suppress usury, the prohibition of sepulture was at least sometimes enforced. A case referred to the Papal Penitentiary in the first half of the thirteenth century shows that the Archbishop of Genoa forbade burial to the corpse of a usurer. The Benedictines of the Abbey of St. Syrus, however, secretly interred it, and then, becoming frightened, removed it from their cemetery. Disregarding the suspension thus incurred under the Lateran canon, they continued to perform divine service until the abbot applied to the Penitentiary for relief, and was told in reply that, if the matter was public, it should be referred to the archbishop to inflict the punishment due to the offence. If it was secret, the Dominican prior of Genoa was ordered to prescribe for them a salutary penance, and, when they should restore to the victims of the usurer whatever money they might have received for the burial, the suspension could be removed. In another case, the Abbot of St. Alban's applied for permission to bury the body of a usurer who on his death-



was œcumenic, its utterances were accepted as the direct inspiration of the Holy Ghost, but they accomplished little. Towards the close of the century Bernard of Pavia, in his commentary on Gratian, affords us a view of the current legal state of the questions involved. Usury was purely an ecclesiastical offence; the secular laws had no provisions prohibiting usurious contracts; if the borrower had sworn, as was customary, to pay interest, he must do so, and then bring suit to recover in a spiritual court, for the lay courts had no jurisdiction.<sup>1</sup> If the borrower chose freely to give something over and above the principal, it could be accepted without sin; if no interest was specified in the contract, and yet the lender exacted or extorted something, this was not usury legally, but it was spiritually a sin for which he must answer in the confessional and be subjected to penance<sup>2</sup>—which of course would imply restitution as a condition precedent. *Superabundantia*—a term borrowed from St. Jerome—was usury; it meant obtaining some profit in addition to the principal, as when a field was hypothecated as security, and the lender enjoyed its fruits during the existence of the loan; all such fruits were to be computed as partial payments, though already there had commenced exceptions in favor of the Church, for, if a layman held a piece of Church property, clerics lending money on it could enjoy the fruits, which Bernard says seems strange, but that it is not for gain, but to enable them to redeem the property from the layman.<sup>3</sup> Usury could lawfully be exacted from an enemy, one whom you might slay, like a Saracen, nor was it usurious to obtain hire for a horse or rent for a house.<sup>4</sup> A penalty for default in payment at the appointed time was not usury if it was

been promised to make restitution. His widow and heirs have now engaged to do so, and the Penitentiary permits the rites to be performed, provided he had given security before he died, and the survivors have fulfilled their promises—*Formulary of the Papal Penitentiary*, Philadelphia, 1892, pp. 172, 174.

<sup>1</sup> Cum hoc crimen sit ecclesiasticum semper est in hujusmodi ad ecclesiasticum iudicem recurrendum.—*Bernardi Papiensis Summa*, Lib. v Tit. xv. §§ 13, 14.

<sup>2</sup> Ibid. §§ 2, 8.

<sup>3</sup> Bernard *loc. cit.* §§ 3, 5, 12.

<sup>4</sup> Ibid., §§ 4, 5.

appraised by a judge, or if it was a definite sum named in the contract to enforce the obligation, but it was usury if otherwise exacted: such contracts, he tells us, were customarily required at Bologna of students from beyond the Alps, and bore the penalty of an ounce in every mark (ten per cent.) if settlements were not made at the customary periods of fair-time or the vintage.<sup>1</sup> Usurers were to be deprived of communion while living, and of Christian sepulture when dead, nor was their money to be accepted in oblations, though some greedy priests were accustomed to say that the coin had committed no sin; clerics were to be suspended and, if persistent, to be deposed. Restitution of usurious gains could be enforced, even from the heirs of the usurer.<sup>2</sup> Already the device was known and prohibited of accompanying a loan with the sale of some object at a price above its value. Selling on credit at a higher rate than for cash was usury; whether this was the case in buying for future delivery at less than the market rate—as in purchasing and paying for grain in advance of the harvest—depended on whether the price paid was too low.<sup>3</sup> We can see from all this what fatal restrictions were laid on trade and credit, and what abundant material the subject afforded for nice distinctions and obscure cases of conscience.

When, at the command of Gregory IX, S. Ramon de Peñafort in 1234 codified the new canon law in the official compilation known as the Decretals of Gregory IX, the collection of decrees on the subject of usury which he embodied shows how earnestly the popes had been endeavoring to suppress it, and how ineradicable it proved. Clerics and

<sup>1</sup> *Ibid.* § 9. A later authority, of the date of 1338, declares that it is not decent to exact the penalty and not lawful when the debtor, without fault of his own, is unable to make payment at the designated term.—*Summa Pisanella* 3, v. *Usura* I, § XXI.

<sup>2</sup> *Hernard. Papiens* Lib. V, Tit. xv, §§ 10, 11.

<sup>3</sup> *Ibid.* § 7. The *Summa* of Master Roland (afterwards Alexander III.) is much less in detail, but in the same spirit (*Caus.* xiv, Q. 4, 5). Stephen of Tournay (*Summa Caus.* xiv, Q. 4, 5) copies Roland. The form of contract known as *Mohatra*, in which the lender sold some article at a high price and immediately repurchased it at a lower, continued to be in vogue until the eighteenth century in spite of perpetual condemnation by the Church.

laymen were alike engaged in it, monasteries and pious organizations had to be reprov'd and forbidden to seek its unhallowed gains, and the various ingenious subterfuges of what came to be known in the schools as indirect or covert usury were largely practiced in the endeavor to escape the unreasoning prohibition. Even the secular power was required to lend its aid in enforcing restitution. At the same time an exception as to enjoying the fruits of hypothecated lands was made in favor of a husband, who took them as security for a deferred dowry, in view of the expense of maintaining his wife. Gregory IX, moreover, gave a further illustration of the impossibility of determining the questions involved on logical principles when he forbade the lender to charge for the risk of a loan made to a merchant about to start on a journey or a voyage, while he admitted that selling higher on credit or buying lower for future delivery, might be justified by uncertainty as to the value of the goods at the time of settlement.<sup>1</sup> With the constantly increasing strictness of practice the first portion of this decree was enforced, while the second was subsequently argued away.

So the interminable contest with human nature was carried on, the Church constantly endeavoring to redeem its failure by ever exaggerated severity. Under Gregory X. the œcumenic council of Lyons in 1273, in order, as it declares, to repress the whirlpool of usury which devours souls and exhausts property, ordered the Lateran canon to be inviolably observed, and added to it that no college or community or person should permit strangers publicly engaged in usury to rent or occupy houses, but should expel them from their lands and never allow them entrance. Obedience to this was to be enforced on laymen and clerics with excommunication by their bishops, on prelates with suspension, on colleges and communities with interdict. Even if dying usurers should order restitution, Christian sepulture was to be withheld until the restitution was made to those to whom it was due, or if the latter were absent, until security was

<sup>1</sup> C. 16, 18, 19. Extra Lib. V. Tit. xix. C. 4 Extra Lib. III. Tit. xxi.

given to the bishop or priest for its due performance, and all, whether monks or priests, who should bury a usurer in contravention of this, were subjected to the penalties provided for usurers by the Lateran canon. No confessor, moreover, was to admit a manifest usurer to confession, until he should make restitution or give security to do so. All this was duly embodied in the canon law by Boniface VIII.<sup>1</sup> The latter is even said by a contemporary to have excepted usury from the benefit of the indulgence of the jubilee of 1300, and, although this is questionable, the assertion illustrates the feeling of the churchmen of the period.<sup>2</sup>

All this was not enough. It would seem that no œcumenical council could assemble without devising more rigorous measures for the suppression of usury, and that of Vienne in 1312, under the presidency of Clement V., went far beyond its predecessors. It declared its grief on learning that some communities favored usurers by laws enforcing the payment of usurious contracts, wherefore it ordered that all such laws should be erased from the statute books within three months, under pain of excommunication of all rulers and magistrates guilty of disobedience. As ingenious devices were employed to conceal the true nature of such transactions, all books of account were directed to be produced and submitted to examination. Any one so hardy as to assert that the taking of interest is not a sin was declared to be a heretic, and, as such, the Inquisition was ordered to prosecute him. All this was likewise embodied in the canon law to be taught in all schools and be enforced in all courts.<sup>3</sup>

<sup>1</sup> C. 1, 2 in Sexto Lib. V. Tit. 5. The severity of the prohibition of sepulture was modified in time by the facility with which absolutions for all infractions of the canons could be purchased. In a copy of the Taxes of the Penitentiary issued towards the close of the fifteenth century, the price of absolution for burying a public usurer is set at eight *gras tournois*, equivalent at that period to one florin, and, though this was only a portion of the total cost, it was much cheaper than restitution by the heirs—*Libellus Taxarum Cancellariæ Apostolicæ* (White Historical Library, Cornell University, A. 6124).

<sup>2</sup> Zaccaria, *Dell' Anno Santo*, II. 88.

<sup>3</sup> C. 1 Clement Lib. V. Tit. 5. For the prolonged struggle between the civil and the canon lawyers over the question of the validity of laws permitting the payment of interest, see Niccolò da Osimo in *Summa Pisanella* s. v. *l'usura* l. § 27.



Thus the infallible Church had exhausted all its resources. To make gain of any kind by the loan of money or of money's worth was a mortal sin; to deny this was a heresy, punishable by burning alive if persisted in. The usurer was a presumptive heretic, a "suspect," and the Inquisition was formally let loose upon him to find out whether he sinned knowingly and would make restitution, or whether he believed himself to be innocent, in which case, unless he recanted, he was fit only for the stake. No one, we may be assured, ever was reckless enough to persist and endure such a fate, but the Inquisition found in usury a profitable subject of exploitation, when, about this time, the suppression of Catharism deprived it of its main occupation. Usurers for the most part were a timid folk, and in a rich commercial city like Florence, where bankers flourished and the payment of interest was habitual, it was easy to extort large sums as the price of immunity. In two years, from 1344 to 1346, the Inquisitor of Florence, Fra Piero d'Aquila, thus accumulated more than seven thousand florins, though there were no real heretics in Florence, and the offences on which he speculated were usury and blasphemy.<sup>1</sup> There was assuredly no lack of offenders, for about this period Bishop Pelayo informs us that the bishops of Tuscany habitually employed the funds of their churches in this manner.<sup>2</sup>

While the Church, through its official organization, was thus sharpening its laws against usury, its theologians were not idle in defining the sin in all its ramifications. The questions to be discussed were not confined to the *forum externum*,

<sup>1</sup> Villani, Cronica, XII. 58. Already in 1258 Alexander IV. had given the Inquisition jurisdiction over usury by the bull *Quod super nonnullis*, which was repeatedly reissued (Raynald Annal. Ann. 1258 n. 23, Potthast Regesta 17745, 18396). In 1285 we find Simon, Archbishop of Bourges, employing his episcopal jurisdiction over it as a heresy, and forcing a number of usurers to abjure at Gourdon, each one being obliged to state what his gains had been, and to swear to make restitution (Harduin. Concil. VII 1017-19). In 1317 the great canonist, Astesanus de Asti (Summa de Casibus Conscientie Lib. III. Tit. Ivi., art. 8), says that inquisitors are not to concern themselves with questions of usury, but he doubtless had not seen the canons of Vienne, the publication of which had been delayed, and which were only issued in that year by John XXII.

<sup>2</sup> Alvar. Pelag. de Planctu Ecclesie, Lib. II. Art. vii.

but were of the utmost importance also in the *forum internum*. The fourth council of Lateran in 1216 had made annual confession compulsory on all Christians, under pain of exclusion from the Church and deprivation of Christian burial. Restitution of usurious gains was a condition precedent to absolution; thus all dealings liable to suspicion had to be made manifest in the confessional, and the confessor had to determine whether or not they were usurious and what restitution and penance were required. In the simpler transactions of rural communities as well as in the more complicated ones of commercial marts, there were innumerable doubtful questions submitted to his judgment, and it was necessary for the schoolmen to define the principles involved in the nature of usury and for the compilers of the *Summæ*, or manuals, to apply these principles to details, and to instruct the priest how to discharge the duties thrust upon him in the constantly increasing development of commercial and industrial interests. Thus Aquinas explained that usury may consist not only in receiving money or other tangible things, but in service of every kind, whether of the hand or tongue, and any contract by which a loan is to be rewarded in this way, whether expressly or tacitly, is usurious, for all such service is worth money. The borrower, however, was elaborately proved to be innocent; he felt no pleasure in paying for a loan, but only in getting it; he did not give the usurer the opportunity of making unjust gains, but only of making a loan, when the latter, from the wickedness of his heart, seized the chance of committing sin.<sup>1</sup> On the other hand, Duns Scotus, the *Doctor Subtilissimus*, whose keen intelligence led him to run counter to the teachings of his contemporaries in so many things, argues that what the usurer gains he gains by his own industry; it is his and he

<sup>1</sup> S. Th. Aquinat. *Summæ* Sec. Sec. Q. LXXVIII, art. iii. ad 3, art. iv. ad 1, 2.—Post-Tridentine theologians drew nicer distinctions as to the guilt of paying interest. Manuel Sa tells us that to borrow on interest in case of necessity is no sin, but, if there is no necessity or advantage, it is sin. (Em Sa Aphorismi Confessorior. s. v. *Usura* n. 5) Diana says (*Summa Diana* s. v. *Usura* n. 4, 5) that there is no sin in paying interest, but it is a sin to offer interest with a view of inducing the lender to commit sin.

can retain it. If he were to restore it to the borrower, the latter would be guilty of usury in making profits from the labor of another.<sup>1</sup>

This was a mere exercise of dialectic ingenuity, and had no influence in practice. The confessor was instructed that the test of usury was intention. If the object in making the loan was gain, even though no conditions were imposed, anything that the borrower might spontaneously give was usurious, whether money or money's worth, in things or service; the most that was conceded was that if the chief motive in making the loan was kindness, belief that some benefit might follow did not render it sinful, and a man might assist a neighbor, believing that the latter might in turn be naturally prompted to do him the same favor.<sup>2</sup> If one lent an article for consumption, and received in return by agreement, tacit or expressed, something else of greater value, whether money or otherwise, the transaction was usurious, and he was bound to make restitution.<sup>3</sup> Tacit compacts were rigidly construed to mean any word or sign by which the borrower was given to understand that something was expected. If there was such an understanding that the borrower would return the favor, it was usurious. The theory of *superabundantia* required that if a pledge were a house, or a coat, or a bed, an agreement that the lender could use it while in his possession, was usurious, and of course a house could not be occupied.<sup>4</sup> The principle that no countervailing service was to be rendered required that there should be no condition, even by implication, that the borrower should have his corn ground at the lender's mill, or bread baked in his oven, or make purchases at his shop, or attend his school; if just prices were received for these things, the lender's profits must be given to the poor; if undue charges were made, he was bound in addition to make restitution of the excess. The admission by Gregory IX that selling on credit at a higher price, or buying for future

<sup>1</sup> Jo. Scotus in IV. Sententt. Dist. XV. Q. ii. de Quarto.

<sup>2</sup> Summa Pisanella s. v. *Usura* I, § 1.

<sup>3</sup> Ibid, § 2.

<sup>4</sup> Summa Pacifica, cap. 10.

delivery at a lower, might perhaps not be usurious had become obsolete, and both were strictly prohibited. Intricate questions arose as to a wife's dower derived from an usurious father, but the received conclusion was that after his death it must be restored to his victims, as otherwise both husband and wife would live in a state of damnation, though there were some laxists who argued that if at the time of the receipt of the dower the father was rich enough to make restitution himself, they could retain it even though he had become impoverished at death.<sup>1</sup> It was a disputed question whether, in making a loan to a merchant about to sail, the lender could insure the goods at the current rate of premium,<sup>2</sup> but it was generally admitted that the testament of a usurer was invalid, unless before death he had made provision for the restitution of his unlawful gains.<sup>3</sup>

Details such as these might be multiplied almost indefinitely, for the ingenuity which devised means of evasion was inexhaustible, and, with the growth of commerce, the questions which arose out of the dealings in exchange were in themselves intricate and numerous enough to tax to the utmost the keenness of the canonists. The space devoted to the subject in the manuals compiled towards the end of the fifteenth century, such as the *Summa Angelica* of Angelo da Chivasso, and the *Summa Rosella* of Baptista Tornamala, show how important and arduous a portion of the duties of the confessional consisted in the adjudication of matters connected with usury, direct or indirect, for these were not mere closet speculations of the theologian, but practical instructions for the priest in his dealings with his penitents. How strictly the canons were construed in practice, may be gathered from some cases submitted to the Papal Penitentiary in the thirteenth century. The abbot of S. Michel au peril de la Mer had lent to a crusader, named Foulques Paganel, a sum of money under a contract by which the borrower agreed to indemnify the abbey for losses and expenses. The abbot pleads ignorance of the illegality of this

<sup>1</sup> Hart. de Chassis Interrogatorium, Venet. 1486, fol. 35a, 37b.

<sup>2</sup> *Summa Pisanellica* s. v. *Urena* I, § xxiv.

<sup>3</sup> *Ibid.* s. v. *Confessor* II, in corp.



transaction as an extenuation of his continuing to perform his functions, in spite of the *ipso facto* excommunication incurred, and he is ordered to be absolved with salutary penance and temporary suspension. So the abbot of S. Josaphat of Chartres confesses that he had lent money to some nobles on their promising to protect the abbey, and, in ignorance of the censure incurred, had continued to act as abbot; in his case the decision was the same as in the previous one.<sup>1</sup>

It is scarce necessary to point out how deplorable was the influence exercised by all this on the development of commerce and peaceful industry, and it largely explains the success of those communities, like Florence, Venice and Genoa, in which the necessities of trade established a custom overruling the prescriptions of the Church. Freed from these shackles, they easily outstripped competitors less independent of ecclesiastical guidance. Moreover, the greatest sufferers were of course those whom the precepts were designed to favor. When throughout Christendom usury was heresy and its gains were robbery, to be rigidly restored under penalty of eternal perdition, the only lenders were those whose greed overcame all scruple, or Jews who were not subject to ecclesiastical law. Under such conditions, there could be little competition of capital, and the risk and odium had to be paid for in exaggerated profits. There could be no credit when credit could not be charged for. Under such a system, productive industries and the interchange of commodities were hampered in every way, and while borrowers and lenders both suffered, the borrower as the weaker party suffered the most. It is thus easy to understand the scarcity of money in the middle ages and the fearful rates of interest current.

In France an ordinance of Philip Augustus in 1206, regulating the usury of the Jews, forbids a charge of more than two deniers per livre per week, thus authorizing interest at the rate of  $43\frac{1}{3}$  per cent. per annum.<sup>2</sup> In England the Caourcins, Italian merchants protected by the Holy See, and popularly believed to share with it their gains, claimed even

<sup>1</sup> Formulary of the Papal Penitentiary, pp. 102, 103.

<sup>2</sup> Isambert, *Anciennes Loix Françaises*, I. 200.

larger profits. In 1235 Matthew Paris gives the form of bond used by them in lending money to abbeys, under which, if the debt was not paid at maturity, it carried interest at the rate of ten per cent. per month, besides all expenses of collection, including a *per diem* for a merchant with a horse and servant. In 1253 Bishop Robert Grosseteste states that a bond for a year would be drawn in pounds, when only marcs (half-pounds) were advanced.<sup>1</sup> In Spain the Jews were more numerous and wealthy, and their business was protected by the law, so that the rates were lower. In Aragon they were permitted to charge twenty per cent. per annum, in Castile,  $33\frac{1}{3}$ .<sup>2</sup> Yet sometimes even this was exceeded, for we read that in 1326 the *Aljama*, or Jewish community of Cuenca, declared the legal rate of  $33\frac{1}{3}$  per cent. too low, and refused to lend either money or corn, causing great distress till the town-council persuaded them to accept forty per cent.<sup>3</sup> In Italy the bankers of Florence had no hesitation in exacting forty per cent. between interest and penalties.<sup>4</sup>

With all its rigidity, the Holy See could wink at infractions of the canons, when its own interests were involved. The income of the curia was largely derived from the sums levied upon those who came to Rome for favors—to procure benefices or the confirmation of elections to abbacies or bishoprics, or favorable judgments in litigation. The prices charged for these, together with the enormous attendant expenses, were commonly far beyond the ability of the applicants to settle on the spot; they were compelled to borrow largely of the Roman bankers, and there was a popular belief that in many cases the ostensible bankers were in reality only the secret agents of the popes.<sup>5</sup> It is self-

<sup>1</sup> Matt. Paris Hist. Angl. ann. 1235, 1253.

<sup>2</sup> *Marca Hispanica*, pp. 1415, 1420, 1431.—*Constitutions de Cathalunya superfluas*, Lib. I, Tit. v. c. 2. (Barcelona, 1489, p. 7).—Villanueva, *Viage Literario*, XXII 301.—*El Fuero Real* Lib. IV, Tit. ii, ley 6.

<sup>3</sup> Amador de los Rios, *Judíos de España*, II, 139.

<sup>4</sup> Villari, *I primi due Secoli della Storia di Firenze*, I, 288.

<sup>5</sup> *De Recuperatione Terræ Sanctæ* c. xvii, (*Bongars Gesta Dei per Francos*, II, 325). For the enormous sums which applicants for papal favors had to borrow in Rome, see Faucon et Thomas, *Registres de Boniface VIII*, n. 2451, 2506-7,

evident that these loans to strangers were not made out of pure Christian charity, and the popes, who enforced on distant abbots the minute provisions respecting indirect usury, and the refusal of sepulture to usurers, were ever ready with their censures to compel the payment of principal and interest to the bankers, on whose business the gains of the curia so largely depended. The chancellor of the Archbishop of Canterbury, when attending the council of Lateran in 1179, thus was obliged to contract debts with Bolognese money lenders. On his return home there was delay in payment, so Lucius III wrote to the archbishop to employ censures to enforce a settlement of the debt and its accretions—the accretions being evidently interest, probably disguised in the form of penalties—and the embodiment of this letter in the canon law shows that it was to serve as a precedent in a settled policy.<sup>1</sup> In the course of time all reserve was thrown off. In the fifteenth century the agents of the Teutonic Order in Rome report that the interest charged by the Roman bankers ranged from ten to sixteen per cent.<sup>2</sup>

As the Church gradually acquired a disproportionate share of the wealth of Europe, not only in lands but in money, it became much oftener a lender than a borrower and it had little difficulty in evading the prohibition of usury in the profitable employment of its spare capital. It would make loans to a needy noble on the security of his lands, taking a so-called *census* or ground-rent of one mark for every ten or twelve or fourteen paid down, the borrower being at any time entitled to pay off the debt, while the lender renounced the right to call it in. These arrangements were especially common in Germany, whence they acquired the name of *contractus Germanici*. They were plainly usurious according to all the definitions of usury, but when, about 1425, some

2520, 2533, 2598-99, 2802, 2805-6, etc. In 1430 the agent of the Teutonic Order in Rome reports that, in a suit between the Order and the clergy of Riga, the latter had spent 14,000 ducats, and that it would still cost the Order 6,000 ducats more to bring it to a conclusion.—Johannes Voight (v. Raumer's *Historisches Taschenbuch*, 1833, p. 150).

<sup>1</sup> C. 3 Extra Lib. III. Tit. xxii.—Cf. Innocent PP. III, Regest. VII, 215.

<sup>2</sup> Johannes Voight (v. Raumer's *Historisches Taschenbuch*, 1833, p. 168.)



nobles of Silesia endeavored to repudiate their obligations on that score, the clergy of Breslau appealed to Martin V, representing that such contracts had been customary for a time beyond the memory of man, and that the funds of the churches and canonries were largely invested in them, more than two thousand altars being thus endowed. Pope Martin lent a favorable ear to the appeal, and pronounced such contracts lawful and liable to enforcement if contested. In 1455 a similar appeal from the Bishop of Merseburg came to Calixtus III, and met the same favorable response.<sup>1</sup> It is true that in 1490 the University of Paris condemned as usurious a contract of this nature, which had been running for twenty-six years, and decided that all the rent paid must be computed as partial payments on the principal, which left the lender in debt to the borrower,<sup>2</sup> but this did not affect the continuance of the custom. In this case the lender had a right to call in the loan after two months' notice, but this was not irregular, for such contracts were made subject to every variety of conditions. The rents were sometimes secured on real estate, and were sometimes personal, the seller (or borrower) pledging his own security which covered all his property. They were drawn in perpetuity, or for a term of years, or dependent on one or more lives, and were payable in money, or in the productions of the hypothecated property. They were sometimes redeemable at the pleasure of the borrower, and sometimes at that of the lender; when irredeemable, the property could not be sold without the assent of the holder of the ground-rent, who was entitled to five or ten per cent. of the purchase money—a payment known as *laudemium*. When the rent fell into arrears, it became subject to compound interest.<sup>3</sup> In 1569 Pius V introduced a sweeping reform. Personal rents were abolished, together with the *laudemium* and compound interest. The borrower had the privilege of redemption after giving two months' notice, while the lender could only call in the loan

<sup>1</sup> C. 1, 2 Extrav. Commun. Lib. III, Tit. iii.

<sup>2</sup> D'Argentré, Collect. Judic. de novis Erroribus I II, 323.

<sup>3</sup> Razzi, Cento Casi di Coscienza, Venetia, 1585, pp. 331-67—Laymann Theol. Moral. Lib. III. Tract. iv, c, 18.—Gobat, Alphab. Confessorior. n. 567.



in case the borrower had given such notice and had failed to make the payment, when for a year he had the right to enforce payment. Any other form of rent Pius declared to be usurious.<sup>1</sup> This was drawing a nice distinction, but the argument of the theologians to prove that money could be invested in these rents without committing the sin of usury affords an instructive example of the ingenious casuistry which could demonstrate dialectically any required theorem in morals or religion. The ordinary rate of interest on these investments, though lower than that on precarious loans, was not moderate. Father Razzi in 1584 informs us that in the kingdom of Naples it was ten per cent. per annum; not long before he had been prior of a Dominican convent in the Abruzzi, and desired to place at interest a sum of money given to the convent; the bishop of the town told him that if he took less than ten per cent., he would be doing injustice to the Church and to the convent, but he thought the friars should set a good example, and contented himself with eight. In Perugia he tells us the current rate was seven or eight.<sup>2</sup>

Another concession to the inevitable came with the establishment of the *Montes Pietatis*, *monts de piété*, or public pawn-broking institutions. If restrictions on the rate of interest are in any way justifiable, it is for the protection of the necessitous poor; no lenders are so heartlessly grasping as those who supply the wants of poverty, and none pay so ruinous a rate of interest as their victims. If this is the case to-day, it was worse when all interest was under the ban; the poor had perforce to be borrowers, and their creditors were merciless. To relieve them a movement was set on foot in the fifteenth century in Italy to establish in all cities places

<sup>1</sup> Pii PP. V. Bull. *Cum omni*, 1569 (Bullar. Roman. Ed. Luxemb. II, 295.)

The *Laudemium* was a fine paid to the feudal lord on the alienation of property held as a fief, see Du Cange, s. v. *Laudare*, 4. The bull of Pope Pius was not accepted everywhere, and in places where it was not received the local customs continued to regulate these transactions.—Bonacini's Compend s. v. *Census* n. 3.

Even contracts so aleatory as annuities were lawful—annual payments dependent on the life of either seller or purchaser, the principal being forfeited. The expectation of life was roughly determined by halving the years remaining from the commencement of the contract up to the extreme period of probable life.—Bonacini *loc. cit.*, n. 11.

<sup>2</sup> Razzi, *op. cit.* p. 376.

where money could be raised on the humble pledges which poverty could offer; this was naturally opposed by the moneyed classes, and Fra Bernardino da Feltre devoted himself to the mission of founding them. In Florence the money lenders were strong enough to drive him from the city, but in Mantua, where in 1494 an inquisitor undertook to prosecute as heretics all engaged in establishing one, Fra Bernardino succeeded in compelling a cessation of persecution.<sup>1</sup> Nominally no interest was charged in the *Montes*, but it was not easy to obtain from the charitable money to carry them on, so a small monthly charge, amounting at first to two or three per cent. per annum was made for the purpose of defraying the unavoidable expenses. If the pledge was not redeemed at a fixed time, it was sold, and the proceeds were returned to the borrower after deducting the loan and the expenses. This brought the plan within the purview of the time-honored definitions of usury, and there was much division of theological opinion as to its permissibility. At the fifth Lateran council in 1515, Leo X endeavored to suppress the opposition by declaring the system lawful and approved by his predecessors; he threatened excommunication for all who should teach or write against it, but notwithstanding this, such high authorities as Cardinal Caietano and Domingo Soto continued audaciously to denounce it.<sup>2</sup>

In the earlier *Montes* the capital to be loaned out was supplied by contributions from the charitable and pious bequests, which were stimulated by the offer of indulgences, but when the enthusiasm was exhausted which provided these means gratuitously, another form of *Mons* was organized to receive deposits, on which five per cent. per annum was paid, and this

<sup>1</sup> Burlamacchi, Vita di Savonarola (Baluz. et Mansi I, 557).—Wadding, Annal. Ord. Minor. Ann. 1494. n. 6.

<sup>2</sup> S. Antonini Summae P. III, Tit. xvii, c. 16 §2.—C. Lateranens. V. Sess. 10 (Harduin Concil. IX 1773).—Card. Toletus Instruct. Sacerd. Lib. v. c. 38.—Em. Sa Aphorismi Confessorior. s. v. *Usura* n. 16.

Fra Giovanni da Taggia, writing in 1518, gives a full summary of the arguments brought against the *Montes*, but appends the Lateran decree, to which he humbly submits and revokes whatever he may have written to the contrary.—Summa Tabiena s. v. *Usura* I, §7.

The council of Trent (Sess. XXI, De Reform. c. 8) enumerates the *Montes Pietatis* among the *pia loca* over which bishops have supervision.

was added to the charge for expenses, bringing the rate to the borrower up to eight or ten per cent. We happen to be told that in 1636 the *Mons* at Brussels charged twelve per cent. This was of course a flagrant violation of the canons against usury, but the theologians discovered that to hold money subject to loan was a service which could be paid for without usury, and it even received papal sanction, for in 1549 Paul III, by the bull *Charitatis opera*, authorized the payment of five per cent. per annum to all who would deposit money with the institution at Ferrara, and there were similar ones under papal auspices at Bologna and Modena.<sup>1</sup> There can be little doubt that these institutions contributed to diminish the odium attaching to usury, for, however the theologians might argue, there could be no doubt that the charges for expenses were interest payments; from those expenses the officials of the *Montes* derived their living, and this is what the usurer likewise did.

A further exception to the canons came in public loans; rulers were obliged to borrow, and bankers could scarce be expected to furnish money out of simple charity. Florentine transactions of this kind were enormous. That republic itself was frequently in the market for funds wherewith to carry on its enterprises; its loans were aggregated into a *Monte*, and its most recent historian tells us that the dealers in these securities had nothing to learn of the arts of the modern stock exchange.<sup>2</sup> In 1343 a financial panic bankrupted nearly all the merchants of Florence in consequence of their inability to collect from Edward III of England and Robert the Good of Naples, the immense sums loaned to those monarchs, which certainly had not been done without compacts promising profit.<sup>3</sup> About the middle of the fifteenth century S. Antonino classes the Venetian loans with the *monts de piété* as the subject of discussion among the doctors as to the legality of their usurious transactions.<sup>4</sup> Whatever

<sup>1</sup> Caramueles Theol. Fundamentalis n. 1797 -- Fel. Potestatis Examen Ecclesiasticum, T. I. n. 24 Q. 2-16 -- The authenticity of the Bull *Charitatis opera* has been questioned but other similar ones were issued by Paul III, Julius III, and Pius IV. S. Alphonsus Liguori Theol. Moral. Lib. III, n. 765.

<sup>2</sup> Villani I primi due Secoli della Storia di Firenze, I, 288.

<sup>3</sup> Villani, Cronica, XI, 138, XII, 55, 58.

<sup>4</sup> S. Antonini Summæ P. III. Tit. xvij. c. 16, § 2.



doubt there was, gradually disappeared. Even so rigid a moralist as Caietano admits that a State can sell an annual rent secured by its revenues and can redeem it, which, like the private *census*, was a transparent cover for borrowing on interest. Whatever may have been the case, he says, they are now so common that to dispute over them would be idle. He even admits that obligations of the *Monte* of Genoa, due in three years, can be sold without recourse at seventy per cent., and this he argues is not lending and borrowing, but buying and selling, which is lawful.<sup>1</sup> In the latter half of the sixteenth century Cardinal Toletus tells us that many of these governmental *rentes* were redeemable at ten years purchase; the obligations could be sold at a premium without committing usury, in fact the only usury would consist in the State putting forth more of them than its revenues would suffice to meet.<sup>2</sup>

The popes, who had been accustomed, when in want of money, to pledge the tiara or jewels, or corn-duties for temporary loans, saw the advantage of this funding of debts, and had no hesitation in adopting it. Clement VII raised a loan called the *Mons Fidei*, in which the rate of interest was seven per cent., to be paid in perpetuity to the holder, the obligations being transferable. Pius IV issued what were virtually annuities, in what was known as the *Mons Redemptionis*—obligations bearing twelve per cent., and terminating at the death of the purchaser, though interest was guaranteed for the first three years. There was another kind of joint-stock operation peculiar to the Holy See and favored by the curia, as it rendered offices more marketable. All offices since the time of Boniface IX were bought and sold; the new *Societates Officiorum* enabled a man to purchase who could not raise sufficient cash, by selling shares on which he paid twelve per cent. per annum out of the revenue of the office, giving security for the repayment of the principal, even in case of his death when the office would lapse—and

<sup>1</sup> Caietani Summula s. v. *Usura*.

<sup>2</sup> Toleti Instruct. Sacerd. Lib. V, c. xxxix, n. 2-3. We see from this how the French word *rentes* for public funds is derived from the old *census*. The term *Monte* by which they were known in Italy seems to have survived only in the sense of a public pawn-shop.



it is significant of the state of society in Rome that there was an exception in case his death should be by violence, so as to remove from his associates the temptation of assassinating him to get their money returned. How the popes played fast and loose with usury is exhibited in a bull of Paul IV prohibiting such societies for the purchase of any office save those of the curia, any attempt to do so being punishable as usury.<sup>1</sup>

Yet with this progressive laxity in public matters, where the interests of rulers were concerned, there was no yielding of the strict construction of the ancient canons in private transactions; in fact, it would seem as though the sin were compounded for by increased rigidity. The theologians of the sixteenth and seventeenth centuries are as unwavering as those of the thirteenth in defining the unlawful nature of all usurious gains, however disguised, and in insisting upon the inviolable duty of restitution and the necessity of the confessor enforcing it before granting absolution. Even mental usury was defined to be a mortal sin—the hope, when making a loan, that the borrower would give something or render some service in recognition of the favor, although no word was spoken to induce him, and although the service might consist merely in some act for the benefit of others, such as almsgiving to the poor or contributing to the fund for the redemption of captives.<sup>2</sup> So heinous was usury considered that it was classed among the sins for which *paritas materie* was not admitted in extenuation. In many sins, such for instance as theft, the trifling character of an offence suffices to remove it from the category of mortal sins—to steal a few coins is venial—but usury was held to be worse than theft, and the smallest gain by its means was mortal.<sup>3</sup> On the other hand, there grew a tendency to give more con-

<sup>1</sup> Toletus Instruct. Sacerd. Lib. v. c. xxxix. al.

<sup>2</sup> Casetani Summula s. v. *Usura*—Toletus *loc. cit.* c. xxviii-xxxj—Summula Catalani Episc. Chiensis. s. v. *Usura*—Esm. Sa Aphonsus Confessor. s. v. *Usura*—Busenbaum Medull. Theol. Moral. Lib. III. Tract. v. c. 3. Dub. 7.—Gobat Alphab. Confessor n. 568.—Laymann Theol. Moral. Lib. III. Tract. iv. c. 16.

<sup>3</sup> Alphons. de Leone de Offic. et Potestate Confessor. Recoll. vii. n. 37 (Arimini, 1630).

sideration to what are known as *lucrum cessans* and *damnum emergens* as justifying the receipt of some profit from a loan. If a man could buy a house bringing him in rent, and if in place of doing so he should lend the money to a poor neighbor, or if, in consequence of the loan, he suffered material injury, it seemed reasonable that he should in some way have compensation. These questions had been mooted since the thirteenth century, and now there was a greater willingness to admit their justice, though extreme jealousy was shown in guarding them with restrictions and limiting them to cases in which the loss or damage actually occurred.<sup>1</sup>

In spite of the theologians, human intelligence was making progress and was striving to throw off the shackles of medievalism, but the Church was too firmly committed on the subject of usury to be moved. Moralists of the laxer school, like Caramuel, argued that the only pure loan is one made on call with adequate security, and in such the taking of interest is theft, but when a definite period of forbearance is agreed upon, it becomes a contract in which risk and time are factors which may reasonably be paid for,<sup>2</sup> but in 1666 Alexander VII, after mature deliberation, condemned this

<sup>1</sup> Summa Pisanelle s. v. *Usura*. l. §§ 23, 25.—Caietani Summula s. v. *Usura*.—Toleti Instruct. Sacerd. Lib. v. c. xxxij, xxxij.—Busenbaum Medull. Theol. Moral Lib. iii. Tract. v. cap. 3, Dub. 7, n. 10.—Laymann Theol. Moral Lib. iii. Tract. iv. c. 16, n. 8.

<sup>2</sup> Caramuelis Theol. Fundamentalis n. 1782-3. Writing in 1656, he describes how, in the disturbed state of Europe, and with the devices of debtors to resist or evade payment, it was almost impossible for lenders to recover their money. His argument (*ibid.* n. 1796) for the justice of payment for time loans would seem to be irrefragable on the ground of morality.

The question as to the lawfulness of payment for stipulated forbearance was a subject of considerable discussion at the time. Diana (Summa s. v. *Mutuum* n. 16) cites doctors on both sides and expresses no opinion of his own.

Some verses current in the schools enumerate fifteen reasons justifying payment for loans. It is observable that they include neither risk nor time—

Feuda, fidejussor, pro dote, stipendia cleri,  
Vendito fructus, cui velles jure nocere,  
Vendens sub dubio, pretium post tempora solvens,  
Pœna nec in fraudem, lex commissoria, gratis  
Dans sociis, pompa, plus sorte modis datur istis.

Reginaldi Praxis Fori Pœnitentialis Lib. xxv. n. 213.

as scandalous, and forbade it to be taught under pain of excommunication removable only by the Holy See.<sup>1</sup> Thirteen years later his successor, Innocent XI, found himself called upon similarly to condemn two other propositions then current, which show how the casuists were endeavoring to undermine the old foundations. One of these bore that, as money in hand is worth more than money in the future, the lender can without usury demand from the borrower something more than the principal. The other asserted that to demand something additional is only usury when claimed as a right and not as an expression of gratitude and kindness.<sup>2</sup> Mildly tentative as were these propositions, they were sternly condemned; the Holy See was evidently determined to stand in the ancient ways, and to yield nothing to modern enlightenment and necessities. In fact, these decisions of Alexander and Innocent have never been revoked and they are still the law of the church.<sup>3</sup> These papal utterances checked whatever tendency existed towards a more liberal construction of the canons. The Jesuit Viva belonged to the laxer school of Probabilists, but in his *Theology*, printed in 1722, he declared that usury is forbidden not only by the divine and canon laws, but by the natural law, as much as theft; in all doubtful cases the doubt must be construed in favor of the borrower, and even gifts from him should be refused, lest they be the offering of fear rather than of gratitude.<sup>4</sup>

The eighteenth century was a period of rapid commercial development, the benefits of which were largely grasped

<sup>1</sup> Alexand. PP. VII. Decr. *Sanctissimus*, 1666, Prop. 42

<sup>2</sup> Innoc. PP. XI. Decr. *Sanctissimus*, 1679, Prop. 41, 42.

<sup>3</sup> Miguel Sanchez, *Prontuario de Teologia Moral*, Trat. xx. Punto v. n. 5 (Madrid, 1876).—Gab. de Varceno *Comp. Theol. Moral. Tra. XII, p. ij. c. i, art. 6 § 1* (Aug. Taurinor. 1889).

As I shall have occasion to cite this latter work I may mention that Gabriele da Guarceno was formerly professor of theology in the Capuchin convent in Rome and is a consultant of the Propaganda and theologian of the Datar. His "Compendium" has reached its ninth edition since its first appearance in 1871 and presumably may be regarded as representing the opinions officially current in Rome.

<sup>4</sup> *Viva Cursus Theol. Moralis*, P. IV. Q. ij. Art. 2, n. 6, 7.

by England and Holland—Protestant nations whose trade was not embarrassed by scruples of conscience on the subject of usury, which contented themselves with protecting the poor and defenceless from extortion, and did not require the merchant and banker to submit annually or oftener the details of their transactions to their confessors, and make whatever restitution of their profits the ghostly father might require under pain of eternal damnation. While this of course cannot be alleged as the main cause of Protestant commercial prosperity, it undoubtedly was a contributing factor, and as the industrial spirit gradually grew more powerful than the military, it was inevitable that Catholics should grow restive under the bonds which crippled their energies and handicapped them in the race for wealth. It was natural that the cry for relief should come from Belgium, where in 1743 Broedersen started the discussion by a work entitled *De Usuris licitis et illicitis*, in which with much learning he sought to prove that money is not, as the schoolmen held, unproductive, and that interest can justly be charged on loans made, not to the poor for their support, but to those who can employ them at a profit in their ventures. The discussion aroused by this led Benedict XIV in 1745 to have the matter maturely debated in the Sacred College, and the result of the deliberations was promulgated in a bull which declared that any charge whatever for the use of money is unlawful and usurious, even if loans are made at moderate rates to rich men to be used in their business. It is true that there are circumstances under which moderate profits can be lawfully secured, but these are by no means universal, and everyone should closely scrutinize his conscience to determine whether what he proposes to do is free from sin.<sup>1</sup> Subsequently, when not speaking *ex cathedra*, he repeated the condemnation of the distinction between loans made to the rich and to the poor, which he stigmatized as an impious doctrine invented by heretics such as John Calvin, Charles Dumoulin, and Claude Saumaise.<sup>2</sup> The

<sup>1</sup> Benedicti PP. XIV Bull *Uix peruenit*, 1745 (Bullar. Bened. XIV. T. I p. 259.)

<sup>2</sup> Ejusd. De Synodo Diocesana Lib. x. c. iv. n. 1-3.



rigorist Dominican, Father Concina, plunged into the fray with his *Commentarius in Epistolam Encyclicam contra Usuram*, in which he defended vigorously the ancient doctrine of the church.<sup>1</sup> In 1746 another advocate of the new views, Scipione Maffei, came forward with a treatise *Sull'impiego del danaro*, dedicated to Benedict XIV, which produced a great effect. He argued that interest is illegal only when excessive; the usury which is forbidden is that which injures, not that which benefits, and that Scripture and the Fathers only condemn extortion on the poor. In spite of the condemnation of this doctrine so emphatically uttered by Benedict XIV, it was accepted and defended by theologians of undoubted authority and orthodoxy—Bolgeni, Cardinal de la Lucerna, Rolando, and Mastrofini, while the conservative side had champions no less eminent. S. Alphonso Liguori, whose work was destined to become of paramount authority, makes a fair presentation of the traditional teaching of the Church, and gives no countenance to a distinction between the rich and poor as borrowers.<sup>2</sup> In the confessional, however, where all such questions were practically decided, he taught the lax doctrine which for more than a century had been gaining ground, that the confessor is to be guided solely by what seems to him to promise best, and that when no result appears likely to accrue from warning a penitent that he must make restitution of illegal gains, he can omit to do so.<sup>3</sup> Practically this relegated the matter to the conscience of the usurer, which was daily becoming more hardened with the spreading popular conviction that the taking of interest is not a sin, though the prolonged discussion of the subject shows how

<sup>1</sup> I have not access to this work, but presumably it is only an expansion of the position assumed by Concina in his *Theologia Christiana* (Lib. ix. Diss. iv. c. 2), where he says that the common people ascribe the crime of usury only to excessive charges. This has been adopted by modern heretics and by one or two ignorant Catholics, but there is no difference between loans made to the poor for their support and to merchants to enable them to increase their gains, all are equally forbidden. Of course he has no trouble in proving this from Scripture, from the Fathers, from the canons, and from the older theologians.

<sup>2</sup> S. Alph. Liguori *Theol. Moral.* Lib. iii. n. 758-92.

<sup>3</sup> *Op. cit.* Lib. vi. n. 616.

difficult the problem had become. Thus Scipione de'Ricci, the Jansenist Bishop of Pistoja, classed notorious usurers with robbers and actors to whom the Eucharist is to be denied.<sup>1</sup> Father de Charmes is very strict in his definition of the *lucrum cessans* and *damnum emergens*, which he holds to be the only justification of receiving profit from a loan.<sup>2</sup>

The whole subject was thus involved in uncertainty which was discreditable to the Church and most embarrassing to confessors. In strictness, their only authorized rule of action was furnished by the canons of the œcumenic councils of Lateran, Lyons and Vienne, and the unbroken tradition of the Church from the beginning. These demanded of them a close inquisition into every business transaction of their penitents, with the refusal of absolution to those who would not make restitution of any gains tainted in ever so light a degree with usury. Yet the enforcement of this would require a large portion of the faithful to surrender their incomes, for the world had moved on, and left the Church behind, and there were few who scrupled about employing their capital in any way that promised the best returns. Confessors inclined to rigor would be involved in perpetual antagonism with their penitents, and would find their confessionals deserted for those of laxer views. There was no authoritative decision under which a conscientious priest or penitent could seek escape from the strict construction of the absolute rules so long enunciated and enforced, while yet in daily life every one treated those rules as obsolete. The situation was unendurable, and yet the Holy See held out, as it did in the matter of the Copernican theory, with a pertinacity which showed how much it cost to make acknowledgment of its fallibility, and that for centuries it had been teaching false doctrine in its œcumenic councils and papal decrees. At length the pressure grew too strong, and it gave way, but it did so in a manner so awkward as to emphasize the admission of defeat, for it made no concession of principle and merely sanctioned a laxity of practice which

<sup>1</sup> *Ad Casus Conscientiæ anno 1784 in Civ. Pistoriensi discussos Resolutiones* p. 81.

<sup>2</sup> *Th. ex Charmes Compend. Theol. Univers. Tract. xv. Diss. ij. c. 3, §3.*

is a prostitution of the sacrament so long as there is no revocation of the doctrine that usury is a sin and its defence a heresy. It was not until 1822 that any recorded action was taken, and this consisted merely in shuffling off a decision in a way which manifested how unwelcome was the question. A woman of Lyons appealed to the Congregation of the Inquisition, complaining that she had placed her capital out at interest, and that her confessor refused to grant her absolution unless she would make restitution of her income to her debtors. In response to this the Holy Office decreed, July 3, 1822, that an answer would be given to her at an opportune time, and that meanwhile her confessor could absolve her without requiring restitution, provided she was ready to obey all future mandates.<sup>1</sup>

Doubtless applications such as this were constantly pouring in upon the Holy See from all quarters, but the next response recorded does not appear until 1830, when the Bishop of Rennes made an earnest appeal to the Holy Office for some decision that should set the question at rest. The confessors of his diocese, he said, were not unanimous; there was a sharp dispute over the meaning of Benedict XIV's Encyclical *Ux peruenit*; there were quarrels and dissensions, the denial of the sacrament to many merchants

<sup>1</sup> Eminentissimi decreverunt: Oratrici pro nunc dicatur quod responsa ad propositos casus ipsi opportuno tempore dabuntur. Interim vero, licet non peracta ulla illarum restitutionum de quarum obligatione S. Sedem consuluit, a proprio confessore absolvi sacramentaliter posse, dummodo vere parata sit stare mandatis.

This decision of 1822 is not commonly given in the books. It occurs in a collection officially issued by Archbishop Fransoni of Turin under the title "Sancta Apostolica Sedis Responsa circa Lucrum ex Mutuo," Pisauro, 1834,—from which I also draw the succeeding decisions, some of which are likewise not alluded to by the systematic writers.

In his Preface the Archbishop dwells on the importance and the unsettled state of the question, and the uncertainty which beset the consciences of the faithful, even after the Holy See had said substantially all that it has thus far seen fit to utter—"In universa rei Moralis scientia non erit questionem magis agitatam, jactatam et hinc inde oppugnatam, quam argumentum de Lucro ex Mutuo imminens questionibus est pro qua parte magis pugnet ratio controversam, de qua in utramque partem potest disputare, quum adhuc desideretur supremum judicium disputationibus finem imponens, ac propterea intra contrarias partes decertantes hærent Fideiham conscientiarum."



who put out money at interest, and damage to innumerable souls. Many confessors adopted a middle course; if consulted, they endeavored to persuade from seeking such gains; if the penitent persisted, they would absolve him on his promise of obedience to the future judgment of the Holy See when it should be rendered; if the penitent did not allude to such gains in his confession, they made no enquiry but granted absolution, fearing that he would refuse to make restitution and to abstain for the future. The bishop, therefore, asked whether he should approve the course of these confessors, and exhort the more rigid to adopt it. To this the cardinals of the Congregation replied briefly, August 18, 1830, that such confessors were not to be disturbed, and that his second question was answered in the response to the first.

In the same year, 1830, Professor Denavit of the seminary of Lyons raised the question in a different shape before the Papal Penitentiary. He stated that the Penitentiary was accustomed to answer all inquiries on the subject by referring the inquirers to the Encyclical of Benedict XIV. Notwithstanding this, there were priests who argued that it is licit to receive five per cent. interest, without reference to *lucrum cessans* or *damnum emergens*, simply on the ground of the national law prescribing that rate, and that this secular law annihilated the divine and ecclesiastical laws prohibiting usury. He therefore had been accustomed to refuse absolution to priests holding this opinion, and he asked whether he was justified in doing so. The inquiry was shrewdly framed, for the question of the preponderance of the civil or of the ecclesiastical law was well calculated to arouse the susceptibility of the curia, but the Penitentiary contented itself with replying, September 16, 1830, that such priests were not to be disturbed if they were prepared to obey the decision of the Holy See when it should be rendered. In 1831 the same question, together with those of the Bishop of Rennes in a more developed shape, was submitted by the Bishop of Verona to the Penitentiary. It referred them to the Holy Office and transmitted the reply, August 14, 1831, which was as usual the evasive one,



"*non esse inquietandos*" until the appearance of that Papal decision which was always implicitly promised and never forthcoming. About the same time, the Bishop of Viviers applied for the solution of some doubts connected with the authority of the secular law, not resolved in the response to the Bishop of Rennes, in reply to which the Holy Office sent to him, September 24, 1831, its answers to the Bishops of Rennes and Verona. Contemporaneously, the matter was presented in the most practical shape by the chapter of Locarno, in the Swiss territory of the diocese of Como. The tithes on which the prebends had been supported were suppressed, and the amount of their capitalization paid over in money: that money must bring in an income, or the canons would shortly consume it and then starve; the *census*, or ground-rent, was prohibited by municipal law; if they invested in real estate it would bring them in only  $2\frac{1}{2}$  per cent., and, besides, the lands of the district were mostly in the hands of large proprietors; they were in despair, and begged to know whether they could not put out their capital on interest, and thus be enabled to continue their religious duties. To this the response of the imperturbable Holy Office, August 21, 1831, was as usual that they were not to be disturbed, provided they were prepared to obey the mandates of the Holy See. Simultaneously, the irrepressible Professor Denavit retorted on the Penitentiary that in France the universal teaching was that the civil law could not override the canon law; he therefore was accustomed to refuse absolution to all who justified themselves by it in receiving interest and who refused to make restitution, and he asked whether in this he was too harsh. The answer to this September 24, 1831, was as usual—he was too harsh, and his penitents "*non esse inquietandos*." Then in January, 1832, Doctor Giuseppe Antonio Avvaro, professor at Pignerol, and pro-vicar of the diocese, addressed the Penitentiary, stating that the subject was creating great dissension, in which both sides appealed to the Encyclical of Benedict XIV; his position required him to give answers to those consulting him, and he desired some definite instructions for his guidance. To this reply was

made, February 16, 1832, by sending to him the responses to Professor Denavit and the Bishop of Verona. Then later in 1832 the Bishop of Aix asked for some rule by which the consciences of confessors and penitents could be quieted, when he received the same answer. These are doubtless only a few examples of innumerable appeals for light on the vexed question, to which the Holy See had but one answer—temporizing and evasion. It could resist no longer the advance of intelligence and civilization, it could not own itself vanquished, or that for centuries it had been teaching false doctrines, and it took refuge in tacitly accepting the situation, while it vainly asserted its supremacy by holding out the promise of a decision which has never come. The Vatican Council afforded the opportunity of revoking the utterances of the Council of Vienne, but it was not utilized, and thus all who justify the taking of interest are heretics, yet they are admitted to the sacraments, and are allowed to cherish their heresy. Nay more, in the second response to Professor Denavit, November 11, 1831, there was a clause that penitents who had accepted interest in good faith were not to be disturbed. This raised the question whether the decisions applied to those who were doubtful as to the legality of usury, and a conscientious penitent consulting a rigid confessor might be told that the very inquiry was sufficient to deprive him of the privilege.<sup>1</sup> To meet this, a subsequent decision was issued January 17, 1838, in which the Penitentiary ordered that absolution without requiring restitution must be given to the penitent, even if he himself believes the taking of interest to be unlawful.<sup>2</sup> The latest utterance is one by the Holy Office, December 18, 1872, in response to an inquiry by the Bishop of Ariano, by which it was ordered that those who take eight per cent. per annum "*non esse inquietandos.*"

Of course, to the systematic theologians, dealing with an interminable line of contrary opinions in the invariable traditions of centuries, this changed attitude of the Holy See,

<sup>1</sup> Gury, *Casus Conscientiæ*, I. 892.

<sup>2</sup> Miguel Sanchez, *Prontuario de la Teología Moral*, Trat. xx. Punto 5. n. 5.

<sup>3</sup> Varceno, *Comp. Theol. Moral.* Tract xii. P. ij. c. 1, Art. 6, § 2, punct. 4.

carefully guarded and evasive though it be, is a troublesome matter to explain. Doctrinally, the old definitions have never been revoked; the difficulty is to reconcile them with the modern instructions as to practice. Father Gury's argument to prove by the *lucrum cessans* and the *damnum emergens*, by the supreme power of the state and by the rules of Probabilism, that it is lawful to take the legal rate of interest is a model of ingenious and graceful retreat from a position which had become untenable. Besides, there are the assurances of the responses of the Holy See that the faithful are not to be disturbed until a decision is rendered, which surely shows that it is probable that such gains are lawful, for if this were not probable, they would have to be disturbed.<sup>1</sup>

There are still conservatives, however, who cannot persuade themselves that the church taught false doctrines up to within a couple of generations, and who, without disputing the authority of the modern decisions, take advantage of their evasiveness to maintain the old rules. Miguel Sanchez, for instance, denounces usury as a thing in itself intrinsically and essentially evil, causing incalculable injury to agriculture, commerce and industry, besides being a violation of the divine law, which entangles more consciences and gives more anxiety to confessors than any other, although it is true that some theologians hold that under certain conditions and in great moderation it is not intolerable. But as a guide in the confessional, where complicated and difficult cases are apt to present themselves, he still prescribes only the old exceptions of delay in the payment of dower, the *lucrum cessans*, the *damnum emergens*, and the expenses of the *monts de piété*.<sup>2</sup>

It must be admitted that honest, obstinate consistency such as this is more to be respected than the casuistic dexterity which makes pretence of reconciling the irreconcilable. The theological student may well be pardoned some perplexity on finding in his text book all the old authorities leading to the absolute assertion that the smallest gain

<sup>1</sup> Gury, Compend Theol Moral., I. 857-64.

<sup>2</sup> Mig Sanchez, Prontuario, Trat. xx Punto 5. n. 2, 3, 6.

from lending money is unjust and unlawful, that the lender acquires no property in it, and must make restitution, or his heirs must do so after his death, and then, after turning a few pages, to read that all this is merely doctrine, that in practice the exaction of eight per cent. per annum is legitimate, that interest payment is of the utmost service to society in stimulating commerce and industry, and that if a confessor enforces restitution he is bound to make it good to his penitent.<sup>1</sup>

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<sup>1</sup> Varceno Compend. Theol. Moral. Tract. XII. P. ij. c. i. Art. 6, § 1 ; § 2, punct. 4. "Ex dictis patet esse omnino illicitum ac injustum lucrum, etiam minimum exigere vi mutui." To escape from this conclusion Guarceno relies for justification wholly on the local law, conveniently ignoring the fact that as we have seen the Council of Vienne under Clement V pronounced all such laws invalid and ordered them removed from the statute books.



## EUROPEAN BUREAUS OF LABOR STATISTICS.

**S**YSTEMATIC statistical inquiry into the conditions of labor by an organ of government is distinctly an American invention. The conception of the plan belongs chiefly to the late General H. K. Oliver, and its practical embodiment to the State of Massachusetts. Thirty-two commonwealths, besides the federal body politic, now officially recognize this method, while across the Atlantic six principal nations have already followed suit. Beginning with England in 1886, the movement has extended to Switzerland, France, Belgium, Germany, and Sweden, and now Austria and Italy are seriously contemplating imitation.

The institutions generally known as labor bureaus, have not everywhere assumed the same form. Differences in organization, functions and methods very naturally appear, the first being modified to suit the system of government of which the organ is a part, while the two last are largely determined by available economic resources.

The object of this article is narrative, not critical. From the scientific point of view an analysis of published results fills a necessary place, but just at this time when most of the foreign bureaus are in their infancy, it is doubtless more interesting to learn something of their organization and what they are seeking to accomplish.

### ENGLAND.

In 1885 Mr. Thomas Brassey, an English railroad magnate, since ennobled, declared in a speech that "good statistics of labor were the basis of all social reform." Sound doctrine of this kind did not long remain unheeded. A wide concourse of intelligent and sympathetic men heartily approved the principle, but it was left to Mr. Bradlaugh to create the mechanism necessary to carry it into practice. On March 2, 1886, he procured the assent of Parliament to the following resolution: "In the opinion of this House immediate steps should be taken to ensure in this country the full and

accurate collection and publication of labor statistics. These should include the detailed description of establishments for each branch of labor in the whole of the United Kingdom, the number of persons and the amount of capital employed in each of them, the advance and decline of each industry, and their result upon the health and habits of the individuals affected. Information is also required in regard to the housing of working people and the conditions under which dwellings are let by employers. Furthermore, investigation should be made into the condition of coöperative societies of profit sharing, and finally into the rates of wages paid to men, women, boys and girls employed in each industry, with the periods of payment of the same."

The Right Honorable A. J. Mundella was at that time the President of the Board of Trade, an English Cabinet office which corresponds very nearly to the continental ministries of commerce and industry. He attached the new organ to the commercial division of his department under the direction of the able financial statistician, Mr. Robert Giffen. As a purely subordinate agency, endowed with an insufficient personnel, and grudgingly supplied with money, it took up Mr. Bradlaugh's ambitious programme, an incidental feature of which was what might be considered an industrial census of the United Kingdom. Small wonder, therefore, that results did not fulfil expectations.

Understanding the inherent impossibility of the task committed to him, Mr. Giffen from the outset did not undertake to present a complete picture of British labor. His efforts were directed rather toward filling in vacant corners of the sketch. Consequently, there have resulted three general classes of publications. First, wages statistics covering the principal industries of Great Britain, in some cases classified so as to show the number of employes in receipt of the different rates, and their proportion to other classes of the community, and at others with historical and international comparisons. Second, compiled partial returns relating to trades-unions, strikes, lock-outs, and alien immigration. Third, miscellaneous special reports on sweating, nail and chain making, cost of living, profit sharing, hours of labor

and other subjects. Factory inspection, friendly societies, accidents to labor, coöperation, savings banks, insurance and prices have not been dealt with, because they had already received attention in various official publications of the Board of Trade and other departments. While it cannot be maintained that the statistical achievements of the old English labor bureau represent finality either in scope or attainment, it is but fair to attribute this to restricted financial resources and to greater attention having been paid to compilation than to original research.

During the elections which took place in the summer of 1892 both political parties promised that the labor bureau should be dignified and enlarged. The turn of the electoral wheel brought Mr. Mundella back to his old place at the head of the Board of Trade, and Mr. Burt, labor's most clear-headed champion, became parliamentary secretary. The Royal Commission on Labor in the meantime took up the matter, and several gentlemen, amongst whom was the writer, were asked to make suggestions for the re-organization. At length, in January of the past year it was announced that the work of "collecting, digesting and publishing statistical and other information bearing upon questions relating to the conditions of labor would in future be entrusted to a separate branch of the Board of Trade." Three distinct departments, Commercial, Labor, and Statistical, compose the branch.

The new English Labor Department cannot complain of insufficient tutelage. The political head of the Board of Trade, Mr. Mundella, is patriarch, Mr. Giffen as controller-general of the three-fold division, stands in the relation of godfather, while Mr. H. Llewellyn Smith, with the title of Commissioner, is the immediate supervising head. The working personnel consists of Mr. John Burnett as Chief Labor Correspondent, three Labor Correspondents, one of whom is a woman, and thirty clerks of all grades. In general, the idea underlying the organization and working programme are quite similar to those of the United States Department of Labor at Washington. The Chief Labor Correspondent and his three assistants take the place of the



twenty special agents at the disposal of the American Commissioner. The difference on the score of numbers is partially compensated by the selection of local reporters, living for the most part in large provincial towns, who are charged to inform the Department of important events, and in special cases to supplement the inquiries of the central office by local investigation. These may be called *attachés* rather than *employés* of the Department. On the force of labor correspondents women find representation as in this country. It is important to note, however, that the American corps is sufficiently large to permit every inquiry to be made by personal inquisition on the spot, while the relatively small number in England limits greatly the possibilities of original research.

Like its American prototype, the English Labor Department will undertake special subjects of investigation and publish annual reports, besides occupying itself from time to time with any particular work it may be charged by Parliament to do. In the latter respect it will take the place of future royal commissions.

Probably the principal effort of the new department will be directed towards continuing and extending the work hitherto prosecuted in relation to wages, strikes, trade unions, immigration, and hours of labor. No specific statement of policy has yet been made which does not harmonize with the above supposition. Considering the resources at the command of the Commissioner as well as the tradition of the office in the past, the new institution seems more likely to become a registry of facts than an organ of original social inquiry. Not that the latter feature will be entirely neglected, but the exigencies of the situation will accord to it a subordinate place.

One feature of the reorganization represents a distinct advance in comparison with American institutions as well as the bureaus in operation on the continent of Europe. This is the publication of a "Labor Gazette," appearing monthly, and containing subject matter of the highest interest to working people. The first number, which was published in May last, contained a statement to the effect that the journal



was meant for the use of workingmen especially, but that it would also be serviceable to others interested in obtaining prompt and accurate information on matters especially affecting labor. In its own particular sphere it represents what the "Board of Trade Journal" stands for in trade and commerce.

The sources of published information are mainly the regular labor correspondents of the Department, volunteer experts and government publications, such as those emanating from the Home Office on factory inspection, from the registrar of friendly societies, from consular and diplomatic reports, and from associations of workingmen, as for example trade unions, and coöperative societies.

An analysis of the eight numbers of this exceedingly useful and valuable publication which have already appeared, suggests a convenient subdivision of the subject matter into fourteen principal categories:

1. The state of employment during the previous month in the United Kingdom, which may be called perhaps the leading article. It is divided into a general summary and reports from local correspondents. More recently London has been treated under a special sub-head. This article naturally takes the first place, as it deals with a subject of the most engrossing interest to working people. Though the situation as regards the skilled trades is particularly dealt with, workingmen of all kinds can form ideas as to the advisability of visiting or avoiding certain localities if in search of work. The practical result of this information ought to be to stop a great deal of useless migration undertaken without the slightest notion as to the current supply and demand of labor at objective points.

2. Another leading article deals with the principal strikes or lock-outs, written presumably by experts thoroughly acquainted with the situation.

3. Brief presentations of the trade, commercial, production, price, railway, emigration and immigration, pauper, judicial, and miscellaneous statistics of the month, or, when a complete record is available, for the year.

4. A digest of cases reported to the Department which have arisen under the principal enactments regulating labor, such as the Employers' Liability Act, the Employers and Workmen Acts, Trade Union Acts and the Friendly Societies Act. No pretension is made that completeness has been secured, but only that the principal instances are cited. In this connection, also, appears a digest of industrial prosecutions for the month, under the Factory and Workshops, Mines and Merchants Shipping Acts furnished by the Home Department.

5. A chronicle of trade disputes which have begun or were either wholly or partially settled during the month. An analysis of these is given so as to show the trade, locality, alleged cause, number of establishments and firms, and the approximate number of persons affected, the dates of commencement and termination, and a summary of the results. It will be noticed that all complications between labor and capital are conveniently classified under the broad and somewhat neutral appellation of "trade disputes." The diplomacy which dictated this step is the result of experience, rather than of design. Earlier classifications simply noted "strikes" or "lock-outs" as the case might be. But an inconvenient question or two in Parliament, apropos of certain difficulties, made the Minister feel that it was wiser to choose broad and neutral terms than to make specific designations.

6. An analytical statement of changes in rates of wages and hours of labor occurring during the course of the month, giving the number of people affected amongst other particulars.

7. The movement in agricultural labor in the United Kingdom with particular reference to existing rates of wages.

8. Mines opened and abandoned during the last thirty days.

9. Progress in coöperation and in the registration and dissolution of industrial organizations and friendly societies.

10. Accidents, on railways, at sea, and in mines, factories, and workshops.

11. Digests of public documents, reports of parliamentary committees, and recent enactments either affecting directly or of interest to workingmen.

12. Abstracts of diplomatic and consular communications on the condition of labor in foreign countries.

13. The state of the colonial labor market.

14. Short miscellaneous articles, chiefly on foreign labor legislation and national and international workingmen's reunions.

The journal deals almost exclusively with compiled information of the most intimate and practical interest to working people. It contains nothing doctrinaire or speculative, and the facts presented are so timely as to be of direct benefit to the class they are meant to reach. The statistician and the economist can also find in its columns the means of keeping himself abreast with the labor movement in Great Britain and Ireland.

This move on the part of the English Labor Department deserves to be imitated wherever possible. In this country there would seem to be nothing in the way of state bureaus taking up the plan, but the field to be covered is too vast, and existing documentary information altogether too meagre for the national Department at Washington to undertake it. These and other limitations compel the latter to confine its work principally to exhaustive original researches on special topics, which, when once completed, permit the question to be laid aside, for a considerable period at least. The collation of data necessary for a scientific presentation involves such an expenditure of time and labor that the complaint which is sometimes heard of the information being out of date before it reaches the public is more or less justified. To obviate this, the Department is now developing a feature which has been in view from the beginning, namely to enlarge the number and variety of its special reports. These as a rule have dealt with, and will in future be made to cover specific topics, which can be treated satisfactorily in a more limited compass than subjects chosen for annual reports. Their preparation is generally confided to specialists working under the direction of the Commissioner.

Through these special reports the public will have ample opportunity to gain information upon subjects of current interest promptly. Exhaustive treatments by experts will prove much more satisfactory than journalistic skimming, which from the nature of the case practically limits the possibilities of a periodical publication.

Hitherto the annual reports of our national Department of Labor, dealing with quite different subjects, have necessarily disregarded the element of continuity in investigation. But Col. Wright, recognizing the fact that there is a demand for the continuous presentation of certain classes of statistics, has determined to publish every five years a *resumé* of strikes and lock-outs in this country, and annually a volume on wages in the United States and Europe. Thus the American institution while conserving the principle that exhaustive original research is its first and highest function, will happily join the advantages of compiled returns and opportune, expert treatises on subjects of special interest.

#### SWITZERLAND.

Switzerland was the second European nation to take up the idea of a labor bureau. Here the new institution, in harmony with the ultra-democratic spirit which leads the federal authority to hold aloof as far as possible from sectional and private interests, and in conformity to previous dispositions in somewhat similar cases, took the unique form of a statistical secretaryship to federated labor.

The powerful Swiss organization, the "Grütli Verein," assumed the initiative in demanding in August, 1886, that like privileges be granted the labor interest as had already been accorded to agriculture, commerce and industry, arts and trades. Negotiations were conducted on the basis of the institution of a central committee in which all workingmen's associations of Switzerland wherein native membership predominated to the extent of two-thirds, should have a pro rata representation. The Chief of the Labor Secretariat, or Permanent Labor Secretary as he was called, was to be named by this committee, and he was to submit his programme of work to it for approval and permission to



execute. Public auditing of expenditures was also prescribed, as well as representation of the Minister in the Central Committee by a delegate with consulting, but not voting authority.

The Swiss Labor Secretariat is a patronized annex, not an integral part of the government. Its administrative officer has no official affiliations or political responsibility. He is simply the elect of the various associations of workmen, and is charged, under the direction of the central committee, to make statistical investigations into the economic and social condition of the laboring population in order to provide a sound basis for legislation. The Accident Insurance law is the first great achievement, though other reports have had useful moral effects. No part is taken in local labor disputes, cantonal affairs, or particularist propaganda. It is recognized to be the highest duty of the institution to ascertain and present the more pressing of labor's needs, and to look after the execution of existing laws. It is meant to point out the path of social progress alike to legislators and to those for whose benefit legislation is made. Here its functions end.

The federal subsidy, which constitutes the only financial resources of the secretaryship, was originally \$1,000 a year. It has since been raised to \$4,000. Annual reports are published, but in the nature of things they are somewhat brief.

#### FRANCE.

The labor movement, so aggressive and fruitful in the other principal countries of Europe during the last decade, received but slight encouragement in France. Since 1884, the date of the law governing corporations of workingmen, no labor enactments of much importance have been inscribed upon the statute books. Savants, statesmen, employers, and laborers have united in signalling not only complete stagnation in social legislation but the utter lack of essential bases for imposing rational measures.

M. Jules Roche, at that time Minister of Commerce and Industry, was the first to break the spell. In 1891 he called into permanent existence a Superior Council of Labor,

designed to act as a consultative body, a kind of chamber cabinet. Ministerial responsibility being a part of the French political system, the initiative in matters of legislation by courtesy belongs to the incumbent of the appropriate portfolio. The elaboration of measures wherein so many conflicting interests have to be considered as in labor legislation, requires special care, and hence the wish of the Minister to surround himself with a body of experts upon whose knowledge and advice he could place dependence. As appointed by him, the commission consisted of fifty members, ten of whom were workingmen, ten leading employes of labor, eleven senators and deputies, and the remainder for the most part *savants*, economists, and public functionaries. Two years is the period of service, one half retiring annually.

To this institution belongs the general duty of devising the necessary means for ameliorating the social, moral, and material condition of working people. In all such matters advice is given to the Minister of Commerce and Industry, who is *ex-officio* the President. Each year the Minister submits three or four questions, likely soon to become subjects of legislation, to the council for discussion, elaboration and advice. An equal number of standing committees are constituted, and each member elects to serve where he feels the greatest interest. During the first year, 1891, four committees undertook the study of Industrial arbitration and conciliation, labor employment agencies, wages, -their inalienability, the mode and periodicity of their payment, and the creation of a bureau of labor statistics respectively. Legislative action has followed official recommendation in case of the first and last named questions, while the two intervening are still before Parliament.

The Superior Council of Labor on the very threshold of its existence rightly conceived that discussion and elaboration would be futile without the necessary preliminary knowledge of conditions. As this did not anywhere exist in France, its first care was to organize an agency for collecting and disseminating useful information relating to labor, to its relations with capital, to hours of labor, to wages of men, women and children, etc. The last clause of the Massachu-

setts enactment, from which this phraseology is directly borrowed, viz. "to devise means for ameliorating their material, moral, social and intellectual condition," was omitted. The reason is evident: to assume the latter duties would be to trespass on the prerogatives of the Superior Council. Herein lies a distinction which we must not forget. The French Bureau of Labor Statistics is an administrative organ of statistical investigation and publication directly attached to the Ministry of Commerce and Industry, and under the patronage of the Superior Council. The latter institution coördinates the results of statistical inquiry, and utilizes them in the elaboration of measures having a social bearing, which are presented to parliament by the Minister. Under this system, the work of the bureau may always be timely, and at the same time its results find an earlier practical influence on legislation.

The programme of action outlined is too long for detailed enumeration. In addition to the pioneer work of securing an industrial census to cover the number of persons employed at each occupation, with their wages and hours of labor, strikes and lock-outs, conciliation and arbitration, accidents, sickness and mortality in the various employments, duration of the active working period in a man's life, trade unions, apprenticeship, technical education; orphanage, reformatory and convict labor, and the social condition of the unemployed, are provided for. The bureau will also become a central repository for information gleaned from other administrative sources, such as reports of consuls, ambassadors and chambers of commerce.

Four publications have already appeared, possessing considerable merit. They are entitled, "Statistical and Financial Investigations of the German Accident Insurance Law," "Strikes in France during 1890 and 1891," "Arbitration and Conciliation in France and Abroad," and the "History and Present Condition of Employment Agencies."

#### BELGIUM.

Another type of organization distinguishes Belgium. In certain respects there is a resemblance to the French system,



though no bureau of labor statistics is provided for by statute. In 1887 a law was passed permitting the creation, by royal decree, of a Council of Labor and Industry in any locality where such an institution might become useful. The members of the body consist of elective representatives of employers and employed, equal in number, chosen for three years and eligible for re-election. Each council is divided into sections wherein either distinct or substantially similar groups of industries find representation. The sections have a complete organization of their own, and meet at least once a year. Extra sessions are convoked whenever disputes between employers and employed arise, and other matters of common interest need to be discussed. The prime object is to make the sections local boards of counsel and conciliation.

The federated sections, that is the district council of industry and labor, serves another important purpose more closely allied to the subject in hand. The King is authorized to convoke the body in plenary session whenever he or his ministers wish to obtain its views on questions or projects of general interest to the industrial classes. On such occasions the government is represented by a delegate who makes any necessary communications and takes part in debates.

At least one notable convocation of this sort has taken place, viz. in April, 1891. At that time the motive for assembling was to furnish information to the government upon wages, and cost and standard of living, apropos of the proposed abrogation of foreign commercial treaties. For this purpose, thirty councils composed of ninety sections met in extraordinary session. The information gathered was afterwards transmitted to the proper Ministry in Brussels, where it was put into convenient statistical shape by the director of the department of industry, and published.

In the Belgian system the various sections of district councils of labor and industry became local reporting agencies, and the industrial division of the Ministry of Agriculture, Industry and Public Works the statistical workshop. A centre of action was lacking, and so in April, 1892, the Superior Council of Labor was created. This is composed of sixteen heads of industrial establishments, sixteen repre-



sentatives of working people, and sixteen men chosen on account of special knowledge on social and economic questions, all of whom are appointed by the King for four years. The ultimate purpose is to vest the selection of the first two categories after the end of the first period in the local councils of industry and labor, thus making membership in these bodies serve as an apprenticeship.

The royal decree creating the Superior Council of Labor defines its duties in general terms as followed: "The Superior Council of Labor is a permanent body, and has charge of the preparation of questions for submission to the different district councils of labor and industry, and also of the presentation of propositions to the government representing the *ensemble* of their wishes. It makes recommendations on the proposals formulated by the various councils with a view of securing uniformity in legislative action. It is consulted on the more complete organization of industrial labor statistics. All questions relating to apprenticeships, trade education, regulation of workshops, measures to be adopted to ensure the health and safety of employes in industrial establishments, accident insurance, legislation regarding labor contracts, etc., are submitted to it." In short the preoccupations of the Superior Council of Labor extend to all questions involving relations between employers and employed, and the improvement of the condition of the toiling masses.

#### GERMANY.

The arrangements which Germany has made for the collection of labor statistics may be classed as an unfortunate imitation of the former English practice of inquiry by royal commission. The word unfortunate applies to the feature which renders possible manipulation for partizan ends. Impartiality is the supreme consideration in institutions of this sort, but the German Commission is so constructed that the friends of the government are always in the majority. Of the thirteen members comprising it, two, the chairman and the representative of the Imperial Statistical Service, are appointed by the Chancellor of the Empire, five are elected by the

Bundesrath (Imperial Council), and six by the Reichstag. The first seven, of course, directly represent the government, and, doubtless, also some of the six deputies are its supporters. Appointees hold office for five years.

The duties of the commission as defined in the official decree are "(1) to undertake the collection and preparation of statistics of labor, and to give an opinion on the results whenever asked to do so by the Imperial Council or the Chancellor of the Empire; (2) to make recommendations to the chancellor regarding the best means of carrying out this object."

These functions are unquestionably very limited in scope, made purposely so, it would seem, with the object of emphasizing the bureaucratic supremacy of the chancellor. It is further prescribed that the commission is authorized, only when ordered by him or by the imperial council, to call into consultation or to receive testimony from employers, workmen or experts. Meetings may be called on the chancellor's approval, and his delegates must always be admitted and heard.

It is scarcely a rash prediction to make that the scientific usefulness of this new institution is hardly likely to measure up to the great opportunities which Germany affords for collating a magnificent statistic of labor. The facts which are necessarily brought to light in the administration of the social insurance laws are an inexhaustible source of exploitation. The imperial government, at different intervals, has engaged in several quite extended inquiries, but unfortunately the results of some of them have never emerged from the gloom of official archives. An American's view of the case would naturally be that a policy of this sort is inimical to scientific progress, creates general suspicion, and lends a helping hand to irresponsible agitators. Consequently, even with the kindest sentiments towards the nation, and the most cheerful recognition of the capacity of many members of the Commission, one cannot but feel that the emphasis given to bureaucratic and political control will hamper scientific freedom and cripple the institution's public influence.

## SWEDEN.

The Swedish parliament at its last session made arrangements for the collection and publication of labor statistics, but just what shape the new organ has taken cannot at the present moment be recorded.

It has been the writer's good fortune to give official testimony in England, France and Sweden, to the utility and opportunities of official organs of social inquiry in the field of labor. He believes them to be, when properly endowed and directed, the most potent of all agencies in the promotion of social peace. Their educative influence is immense, though incapable of expression in exact terms. The direct effect in promoting legislation has also been very great. As set forth by the national Commissioner, Col. Carroll D. Wright, it is simply astonishing. Early in the history of the Massachusetts office, reports on the condition of tenement house life in Boston resulted in the enactment of remedial laws, and in creating private agencies to improve old houses and build model ones. The reduction of child labor, the institution of proper factory inspection, and the establishment of the ten-hour working day, in a majority of our industrial States, are due in a large measure to the crystalizing of public opinion by the bureaus in favor of these great reforms. Abolition of the truck system, weekly payment of wages, and modifications of the doctrine of common employment, are other instances of direct results accomplished. No less powerful has been the influence of the bureaus in dissipating misapprehensions which sometimes have gone so far as to threaten a harvest of harmful prejudices. Massachusetts and Connecticut afford several illustrations of this. Everywhere the social atmosphere has been cleared, ameliorations rendered more easy, and much positive good accomplished by the establishment of bureaus of labor statistics.

The great mistake in Europe, as well as in a majority of our own States, has been in according very meagre financial support. This involves the employment of imperfect methods, and faulty machinery means indifferent results. While it is satisfactory to note a very substantial increase in



appropriations in comparing the last budgets of nearly all the bureaus with their first, there is still room for wider generosity. But hampering as slender financial support may be, it is not nearly so discouraging as another practice followed in the majority of States. I refer to the office of Commissioner of Labor being made a foot-ball of politics, and its incumbent changing with the advent of another party to power. If there is any post which should be kept entirely outside the domain of State politics, it is that of Commissioner of Labor Statistics. The Governor should regard the office neither as a political perquisite, nor as a sinecure, but as a most responsible post, requiring in the incumbent experience as well as capacity and integrity. The labor statistician is in reality the recorder of industrial and social progress in his commonwealth, gathering each year a series of facts, and studying some problems in their local entirety. Work of this sort requires a knowledge of sources of information and methods of presentation, together with a broad conception of duty in order to ensure success. How absurd, then, to say nothing stronger, is it to dismiss an incumbent soon after he has learned to understand and wisely to discharge his functions. Tact, good judgment, and openmindedness, joined to the qualifications already enumerated, are not so easily found that faithful and efficient service can be lightly dispensed with at the behests of partizan convenience. No survival of the spoils system is more odious, none of our political practices more utterly unjustifiable than this. It is safe to say that it arises from an entire lack of apprehension of the issues involved.

Fact gathering is the work of highest importance to-day. Our social system on many sides is seeking readjustments. These it cannot blindly reach. The empirical study of social questions is the task of this present generation. An accurate knowledge of conditions with rational generalizations, is what we must chiefly demand and expect. At a later stage, the deductive philosopher may come, but the social-economic world is not ready for him yet. The concentration of attention on social problems is a good



thing, but the multiplication of agencies for their study is better. The establishment of the Massachusetts bureau marked the beginning of an important movement, which we are gratified to see securely transplanted in Europe, and there giving promise of healthy development in harmony with the polity and traditions of divergent national environments.

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## JEFFERSON AND THE SOCIAL COMPACT THEORY.

THE theory of social compact founds the authority of government on the express or implied consent of the subjects to its creation or continuance. There are various types of the theory, but they agree in postulating, in some form, as the condition of rightful authority in the state, a pact between the governors and the governed. In the conservative form of the theory, this pact is merely a theoretic implication which serves to define the mutual obligations of ruler and subject. In the more radical form, the actual consent of the people, or of a major portion of them, is assumed to be requisite to the validity of a civil polity.

The genesis of the social compact theory is a point of much historical interest. To investigate the rise and progress of this doctrine does not fall, however, within our present purpose. Many<sup>1</sup> find the germ of the theory, which was developed by subsequent writers, in the sentence of Grotius: "*civilis juris mater est ipsa ex consensu obligatio.*" Grotius, in effect, teaches that there is a tacit agreement on the part of the people of a monarchy or republic to obey the will of the sovereign or the majority. Before him, however, Hooker had presented the same doctrine; his view being that an original consent of a people to be subject to a sovereign binds posterity as parts of one corporation. We lived, he says, in our remote ancestors.<sup>2</sup> The idea was transformed, in the hands of Hobbes, into the distinct conception of an original contract—of a state of nature as preceding civil society—which, though acknowledged by him to be a fiction, as far as actual history is concerned, is, nevertheless, the basis of his reasoning in behalf of absolutism in government. Locke differs from Hobbes in placing the sovereignty, conceded by man on passing from the state of nature into society, in the community, instead of an absolute

<sup>1</sup> e. g., Leo, in his *Universalgeschichte*, B. III, s. 717.

<sup>2</sup> *Ecclesiastical Polity*, I, x. 8.

prince. Locke was much affected by the writings of Hobbes,—more often, to be sure, in the way of repulsion than attraction. A leading doctrine in Locke's *Reasonableness of Christianity* is the same that Hobbes endeavors to establish in the *Leviathan*,—the doctrine that the substance of Christianity, as preached by the Apostles, is the proposition that "Jesus of Nazareth is the Messiah." Before Locke, however, Algernon Sidney, in his *Discourses concerning Government*—first published in 1698—had broached the theory of a contract. Montesquieu, though a friend of limited monarchy after the English model, is considered by Leo (who is a hater of republican government) to have paved the way for the revolutionary philosophy of Rousseau, by making *virtue* a defining characteristic and only support of popular, as distinguished from aristocratic or monarchical government. The word *Contract*, in a special application to the relation of king and people in the English Constitution, is found in the great vote of the Houses of Parliament which declared vacant the throne of James I, and made room for the accession of William. In the medley of reasons (for all writers acknowledge it to be a medley) given for their act, James is charged with "having endeavored to subvert the constitution of this kingdom by breaking the original contract between king and people." Such a contract is thus declared to be involved in the English Constitution. Here a nice and interesting question arises, whether the reference was to a primary, unwritten contract, implied in the existence of a government of law—a social compact—or to some positive feature and express provision of the English system. Hallam would seem to incline to the former interpretation. He says that this position was "rather too theoretical, yet necessary at that time, as denying the divine origin of monarchy, from which its absolute and indefeasible authority had been plausibly derived."<sup>1</sup> He also remarks, "They proceeded not by the stated rules of the English government, but the general rights of mankind. They looked not so much to Magna Charta as the original compact of society,

<sup>1</sup> Hallam's *Const. History* (Harper's ed.), p. 544.

and rejected Coke and Hale, for Hooker and Harrington."<sup>1</sup> Macaulay, speaking of the inconsistent statements of the great vote, there being one reason put in for each section of the majority who were relied to pass on it, says that "the mention of the original contract gratified the disciples of Sidney."<sup>2</sup> Macaulay defends the inexact and confused character of the vote on grounds of expediency, as the proper way to secure unanimity; remarking that "the essence of politics is compromise." But Mackintosh, with more reason, declares that it would have been manlier to fall back openly upon the right of revolution, instead of mixing up the pretense of an abdication.<sup>3</sup> In the trial of Sacheverell, the sense of this vote and the character of the revolution, of which it was a part, were deliberately expounded by the managers of the impeachment. Sacheverell had coupled with his doctrine of absolute submission the assertion that the revolution was not a case of resistance. But the managers of the prosecution did not allow him to shield himself by this mode of approving of the revolution. They affirmed that it *was* a case of forcible resistance, and that his principle of non-resistance, being a virtual condemnation of it, would overthrow the title of the reigning sovereign. Yet the ambiguity of the clause about the contract between the king and people is not cleared away. A leading manager, Sir Joseph Jekyl, said: "to make out the justice of the revolution, it may be laid down that, as the law is the only measure of the Prince's authority and the people's subjection, so the law derives its being and efficacy from common consent; and to place it on any other foundation than common consent, is to take away the obligation this notion of common consent puts Prince and people under to observe the laws."<sup>4</sup> This sounds like the Lockeian social compact. The revolution, the same manager said, occurred in "a case that the law of England could never suppose, provide for, or have in view."<sup>5</sup>

<sup>1</sup> Ibid., p. 546.

<sup>2</sup> Macaulay's *Hist. of England* (Harper's ed.), Vol. II, p. 580.

<sup>3</sup> Mackintosh's *History of the English Revolution*.

<sup>4</sup> State Trials, Vol. XV, p. 98.

<sup>5</sup> Ibid., p. 110.



Said another manager, Sir John Hawles: "When a government is brought out of frame by the extraordinary steps of a Prince, it is a vain thing to hope that it can ever be set right by regular steps." "The revolution," it was said, "cannot be urged as an instance of the lawfulness of anything, but of resisting the supreme executive power acting in opposition to the laws." But when challenged to produce the contract between king and people, Sir Joseph Jekyl refers to the history of the coronation oath, of the oath of allegiance, to ancient customs and forms, which involve such a contract. That is to say, he makes his appeal to usages and peculiarities interwoven with the Constitution, as if the contract were a positive thing, a feature of the English system of government, rather than the underlying basis of all civil society, at least where there is monarchy. This is insisted upon,—that there was no law providing for the revolutionary action. It was an exercise of power not provided for by any existing statute. But it was an act of the community, having for its end the *recovery* of the Constitution and Laws. The right to perform such an act is not extended beyond the case in question, where there was an actual necessity of restoring the government and of saving the Constitution from being overthrown. It is only the right of conservative revolution that is claimed. There is nothing, therefore, in their mode of stating the English right of resistance, to determine with certainty whether the managers held that the contract between King and people is a positive and special characteristic of English institutions, or a fundamental part of all monarchical society. At the time of the revolution, when the question of the condition in which things were left, by the departure of James, was under debate in Parliament, some one suggested that they were left in a state of nature. But it was immediately replied that such a view would dissolve all laws and abolish all franchises. The truth appears to be that, as far as the act of dethroning James and enthroning William is concerned, they could properly plead only the right of revolution. The

<sup>1</sup> *Ib.*, p. 123.

<sup>1</sup> *Ib.*, p. 353.

*precise* meaning, when they spoke of breach of compact between King and people, was probably apprehended by few, if any, of the actors themselves.

Burke, in his famous "Reflections on the French Revolution," does not absolutely exclude the notion of a "consent" on the part of subjects as implied in the existence of lawful government. He teaches that men have an equal right to the advantages for which society was created. The management of the state, however, not being among the original rights of man, does not belong equally to all. The obligations of the subject do not depend on any voluntary, formal act of consent on his part. It is no violation of natural rights when political power is lodged with a few, or with one man, provided the ends of government are attained. In saying that the management of the state is "a thing to be settled by convention," and in using the terms, "compact of the State," the social "partnership," Burke has no intention, it hardly needs to be said, to sanction the doctrine that an explicit consent of the people, or of the major part of them, to the creation of a particular government and to the selection of those who administer it, is necessary, if the subject is to be bound to obedience. On this topic Burke writes thus:—

"Though civil society might be at first a voluntary act (which, in many cases, it undoubtedly was), its continuance is under a permanent standing covenant, coexisting with the society; and it attaches upon every individual of that society, without any formal act of his own. This is warranted by the general practice, arising out of the general sense of mankind. Men, without their choice, derive benefits from that association; without their choice they are subjected to duties in consequence of these benefits; and without their choice they enter into a virtual obligation as binding as any that is actual. Much the strongest moral obligations are such as were never the results of our option. \* \* \* \* \*

We have obligations to mankind at large which are not in consequence of any special voluntary pact. They arise from the relation of man to man, and the relation of man to God, which relations are not matters of choice. \* \* \* \* \*

Dark

and inscrutable are the ways by which we come into the world. The instincts which give rise to this mysterious process of nature are not of our making. But out of physical causes, unknown to us, perhaps unknowable, arise moral duties which, as we are able perfectly to comprehend, we are bound indispensably to perform. Parents may not be consenting to their moral relations; but, consenting or not, they are bound to a long train of burthensome duties towards those with whom they have never made a convention of any sort. Children are not consenting to their relation, but their relation, without their actual consent, binds them to its duties; *or rather it implies their consent, because the presumed consent of every rational creature is in unison with the predisposed order of things.* Men come in that manner into a community with the social state of their parents, endowed with all the benefits, loaded with all the duties of their situation. If the social ties and ligaments spun out of those physical relations which are the elements of the commonwealth, in most cases begin, and always continue, independently of our will, so without any stipulation on our part, are we bound by that relation called our country, which comprehends (as it has been well said) 'all the charities of all.' Nor are we left without powerful instincts to make this duty as dear and grateful to us as it is awful and coercive. Our country is not a thing of mere physical locality. It consists, in a great measure, in the ancient order into which we are born. We may have the same geographical situation, but another country; as we may have the same country in another soil. The place that determines our duty to our country is a social, civil relation."<sup>1</sup>

<sup>1</sup> "Omnes omnium charitates patria una complectitur." Cicero.

<sup>2</sup> Vol. III, p. 460. In agreement with Burke's definition of terms are the observations of Blackstone on the same topic, in his Commentaries, (Introduction, section 2) "But though society," says Blackstone, "had not its formal beginning from any convention of individuals, actuated by their wants and their fears, yet it is a *sense* of their weakness and imperfection that keeps mankind together, and that, therefore, is the solid and natural foundation, as well as the cement of civil society. And this is what we mean by the original contract of society." The author proceeds to say that protection of the rights of the individual by society, and submission to the laws by him in return, are the parts of the compact.



Utterly antagonistic to the principles and the spirit of Burke, is the famous treatise of Rousseau, the *Social Contract*, which more than any other work was the text-book of the French Revolution. It is significant that the whole discussion is reared upon speculations relative to the origin of civil society. Rights and obligations must all be inferred with mathematical exactitude from the fundamental theory adopted at the start. This theory assumes that the existence of society is optional with men, and is due to their voluntary consent. Individuals are bound by the actual social bond only because, and as far as, they have agreed to be bound. This false dogma of a mutual contract is laid at the foundation of the edifice. It is further held that the individual in entering society surrenders all his rights to the community, and through this common act of all there instantly arises the body politic. To the community, thus formed, belongs sovereignty. The general will is now the supreme law. To this general will the entire frame-work of government is subject. The idea of "institutional" freedom, of freedom secured and assured to the individual by constitutional safeguards, against the haste or deliberate tyranny of majorities, is discarded. Representative government itself is derided as a product and sign of the decay of public spirit.<sup>1</sup> Of course the state must be restricted to narrow territorial limits. But what is this general will which is so omnipotent in the state? It turns out to be merely the majority of suffrages. When the vote of a citizen upon any measure is called for, the question really answered by him is, what in his opinion is the general will in reference to this measure. The result of the ballot decides the point, and thus if he finds himself in the minority, he is not really overruled, but simply mistaken in his judgment as to what the general will

<sup>1</sup> Rousseau explicitly says that every law which is not expressly ratified by popular vote, is no law, and that the English, through their adherence to representative government, are slaves. "Toute loi que le peuple en personne n'a pas ratifiée est nulle, ce n'est point une loi. Le peuple Anglois pense être libre, il se trompe fort il ne l'est que durant l'élection des membres du parlement: sitôt qu'ils sont élus, il est esclave, il n'est rien." Livre III, ch. XV.



is.<sup>1</sup> It is impossible to imagine a more frightful despotism than Rousseau's sovereignty of the people, under which the individual has literally given up everything to the unchecked will of the majority. Equality, which more than liberty is the idol of the Frenchman, is the key-note of Rousseau's entire work. Views akin to those expressed in this ingenious but superficial essay have fascinated the French mind, and led to the sacrifice of both stable government and substantial freedom. On the warrant afforded by a popular vote (called for, according to the more approved practice, after the deed has been done), one government is overthrown and a new one set up, and the entire community, perhaps, brought under the uncontrolled sway of an imperial despot. This terrible price is paid for the sake of having a government which is (in theory) of their own making. The protection of natural rights, a prime object of society, is, in fact, given up, in consequence of the hot chase after political rights; and even these are not attained.<sup>2</sup>

<sup>1</sup> This curious, though puerile subterfuge for saving (theoretically) the freedom of the individual, when overborne by the vote of the majority, is found in *Liv. IV, ch. ii* (*Des Suffrages*). "Quand donc l'avis contraire au mien l'emporte, cela ne prouve autre chose sinon que je m'étois trompé, et que j'estimois être la volonté générale ne l'étoit pas."

<sup>2</sup> Burke has left on record his opinion of the *Social Contract* and its author. In a letter to a French correspondent (in 1789), quoted in Prior's life of Burke, (Am. Ed. 1825, p. 313), he says, "I have read long since the *Contrat Social*. It has left very few traces upon my mind. I thought it a performance of little or no merit, and little did I conceive that it could ever make revolutions and give law to nations. But so it is." In Burke's "Letter to a Member of the National Assembly," (1791), we find a dissection of Rousseau, whom he calls "the great founder and professor of the philosophy of vanity." Burke's satire upon the sentimental philanthropy which tramples under foot particular duties is excellent. Rousseau is the father of the sentimental school of poets (not excepting Byron and Goethe) and novelists, who seek to make a criminal interesting by weaving around him a veil of sentiment—aiming to excite sympathy where reprobation is the proper feeling. There is a very curious fact concerning Rousseau, which Burke brings forward in the "Reflections." "Mr. Hume told me that he had from Rousseau himself the secret of his principles of composition. That acute, though eccentric observer, had perceived that to strike and interest the public, the marvellous must be produced, that the marvellous of the heathen mythology had long since lost its effect, that giants, magicians, fairies, and heroes of romance which succeeded had exhausted the portion of credulity which belonged to their age, that now nothing was left to a writer but that

We are more apt to connect the theory of the Social Compact with the name of a true lover of liberty, John Locke, a man, in all that constitutes human excellence, at a high elevation above Rousseau. The negative part of Locke's treatise on government, wherein he demolishes the arguments of Filmer in favor of absolute monarchy as a legitimate inheritance from Adam and from the dominion of the patriarchs, is fully successful. His task was here comparatively easy. So the second book of Locke's treatise is marked by signal merits. The sentiment of hostility to tyranny that inspires the work, is characteristic of the author. The natural rights of men, such as the rights of property, are declared to be not the creatures of civil society, but the end of society is properly defined to be the protection of them—though the error is committed of making the prime object of the commonwealth to be the security of property. The function of government, also, is limited to the end for which government is established. The state, however it may be constituted, must keep to its design. But Locke falls into the great error of supposing that the consent of the individual is necessary in order to his transference from an imaginary state of nature within the fold and under the obligations of civil society. Every man, says Locke, is naturally free, and nothing is "able to put him into subjection to any earthly power but only his own consent."<sup>1</sup> Men being, as has been said, by nature, all free, equal, and independent, no one can be put out of this estate, and subjected to the political power of another without his own consent.<sup>2</sup> Compelled by his theory, Locke affirms that every one actually, though tacitly, gives his consent to the social compact when he comes of age, by the very act of inheriting property in a country! Every generation, by these separate acts of individuals, renews the compact,—

species of the marvellous, which might still be produced, and with as great an effect as ever, though in another way; that this the marvellous in life, manners, in characters, and in extraordinary situations, giving rise to new and unlooked for strokes in politics and morals."

<sup>1</sup> Locke's Works (London, 1794), Vol. IV, p. 409.

<sup>2</sup> *Ib.*, p. 394.

otherwise society would be dissolved! Moreover, Locke assumes (for he fails to prove) that the assent to the social compact implies a promise to be governed by a majority. "When any number of men, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority." Instead of founding society, with Burke, upon a divinely ordained, "predisposed order of things," with which the will of every rational being is *assumed* to agree, Locke makes the mistake of requiring, as a condition of the validity of government, an explicit act and the voluntary consent of every one who is born in a country. In taking this ground, he advanced beyond any statements of Hooker, whose authority he is able to bring in support of the principle that society owes its origin to an express or secret agreement, and that no human government is binding without the consent of the governed. Hooker, as we have said, avoids the necessity of getting the consent of every new generation to the existing form of society, by falling back upon the notion of the continued life of a corporation. The motive of Locke, we may add, was the honorable one of defending the rightfulness of the change of dynasty by which the Stuarts were expelled and the Prince of Orange raised to the throne. He desired to present a theory of society that would justify the change. It were better, however, to rest it upon the simple right of revolution.

The doctrine of the Social Compact is embodied in a general form in the preamble of the American Declaration of Independence. Men are asserted to be by nature equal, governments are instituted to protect them in the exercise of their natural rights, and owe their powers to the consent of the governed. Jefferson states that he "turned to neither book nor pamphlet in writing it."<sup>1</sup> It is clear, however, that phrases from the Virginia Declaration of Rights were in his thoughts.<sup>2</sup> That document, as drawn up by George Mason, contains the following statements:—

<sup>1</sup> Works, Vol. IV, p. 395.

<sup>2</sup> Jefferson's Works (1853), Vol. VII, p. 305.

<sup>3</sup> So Mr. Ford judges. Jefferson's Works, Vol. I, p. xxvi.



1. "That all men are created equally free and independent and have certain inherent natural rights \* \* \* \* \* among which are the enjoyment of life and liberty, with the means of acquiring and possessing property and pursuing and obtaining happiness." \* \* \* \* \*

3. "That Government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community." \* \* \* \* \*

In Jefferson's first draught of the Declaration of Independence, he wrote: "that all men are created equal and independent; that they are endowed by their Creator with certain inherent and unalienable rights," etc. The terms "independent" and "inherent," which occur also in Mason's Paper, were erased from the draught by Jefferson's own hand. But the ultimate source of a number of thoughts and phrases in the theoretical part of the Declaration of Independence was, as Richard Henry Lee once alleged, Locke's treatise. Compare, also, the following passages, the first being from the Declaration: "Prudence, indeed, will dictate that governments long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security." Locke writes (p. 472): "Revolutions happen not upon every little mismanagement in public affairs. Great mistakes in the ruling part, many wrong and inconvenient laws, and all the slips of human frailty, will be borne by the people without mutiny or murmur. But if a long train of abuses, prevarications and artifices, all tending the same way, make the design visible to the people, and they cannot but feel what they lie under, and see whither they are going; it is not to be wondered that they should then

<sup>1</sup> Life and Correspondence of George Mason, Vol. I, p. 339.



rouse themselves, and endeavor to put the rule into such hands which may secure to them the ends for which government was first erected."

Elsewhere, in the writings of Jefferson, we find him advocating the theory of a social contract in its most radical form and pushing it to conclusions almost anarchical in their tendency. In the midst of the earlier stages of the French Revolution, he wrote a letter from Paris, on September 6, 1789, addressed to Madison. In this letter he propounds an extreme opinion on the necessity of popular consent to the existence of the organic law of the state. The following are extracts from this remarkable epistle:—

"The question whether one generation of men has a right to bind another seems never to have been started either on this or our side of the water. Yet it is a question of such consequence as not only to merit decision, but place among the fundamental principles of every government. The course of reflection in which we are immersed here, on the elementary principles of society, has presented this question to my mind; and that no such obligation can be transmitted I think very capable of proof. I set out on this ground, which I suppose to be self-evident, that the earth belongs in usufruct to the living." He proceeds to show to his own satisfaction that the sole basis of a right of inheritance is "the law of the society." Then he infers that "what is true of every member of the society, individually, is true of them all collectively; since the rights of the whole can be no more than the sum of the rights of the individuals." He argues that the earth belongs to each generation "during its course, fully and in its own right. The second receives it clear of the debts and incumbrances of the first, the third of the second, and so on." When a whole generation, that is, the whole society dies \* \* \* \* and another generation or society succeeds, this forms a whole, and there is no superior who can give their territory to a third society, who may have lent money to their predecessors beyond their faculty of paying." In this way the attempt is made to demonstrate that a debt contracted by one generation, or by a government at a particular time, is not binding on any

generation after. He limits the duration of the contracting party to thirty-four years. "Every constitution, then, and every law naturally expires at the end of thirty-four years." This is not a merely tentative speculation. "Examination," we are told, will prove it to be solid and salutary."<sup>1</sup> In a subsequent letter, Mr. Jefferson revises his numerical calculation. He has come to see that the half of a contracting society disappears in nineteen years. "Then the contracts, constitutions, and laws of every such society become void in nineteen years from their date."<sup>2</sup> The period here allowed for the rightful existence of the constitution and laws of a political community is, as one has said, shorter than the life-time of a horse. That these were not temporary, fleeting opinions is proved by the fact that twenty-four years later, in 1813, and again, only two years before his death, under date of June 5, 1824, Jefferson advances these same propositions in almost identical language. This shows that he had not been convinced by Madison's pretty obvious objections to this superficial theorizing. If the earth belongs to the living, what shall be said of the improvements made by those before us, and the services rendered, and the debts incurred, for our sake? Unless temporary laws were kept in force by additional acts prior to their expiration, "all the rights depending on positive laws, that is, most of the rights of property, would become defunct." Madison falls back on the idea of a *tacit* consent given to existing laws through the very fact of their non-revocation. He goes farther, and raises the question, on what principle is it that the voice of the majority binds the minority. This, he answers, is not a law of nature, but is the result of a compact, and a compact in the making of which there was unanimity. "Rigid theory" must pre-suppose such a unanimity. Unless there be this tacit agreement, no person on attaining to mature age is bound by the acts of the majority. The good sense of Madison enables him to riddle the doctrine of his correspondent, but Madison struggles in the meshes of the social compact theory, and can think of no escape from its practi-

<sup>1</sup> Jefferson's Writings (1853), Vol. III, p. 102 seq.

<sup>2</sup> Ibid, p. 109.

cal absurdities except through assumptions not less arbitrary and artificial than the hypotheses which they are invented to bolster up.

The social compact theory, considered as an historical explanation of the origin of states, is, of course, true only to a very limited extent. Political communities, as a rule, have had other origins. It is at best a legal fiction, convenient, as other legal fictions may be, as a mode of stating the reciprocal character of the rights and obligations of rulers and the ruled respectively. When taken for a political dogma, as a test of the validity of existing systems of polity, it is a mischievous error. When we interpret it, with Burke, as a mode of saying that every rational will is presupposed to coincide with the right order of things; or, with Blackstone, as a way of asserting that reciprocal duties are laid upon rulers and the governed, it conveys a truth. When we take another step, and affirm that no government which was not established by general or unanimous consent, can claim allegiance, and further maintain that the assent of every generation, nay, of every individual, is the condition of his obligation to obedience, we introduce a political heresy, the influence of which is very likely to be disastrous. The true view to take is, that the existing form of state, regarded as a fact, may, or may not, be due to an express agreement at some former epoch. But the obligation of the individual to obedience does not depend on his having had a share in forming the state, or on his having a share at present in the management of it. This, be it observed, is not to approve of the denial of political power to those who are capable of exercising it. It is easy to suppose cases where the withholding of all share in the government from those who can be safely trusted with political power is both arbitrary and inexpedient. What form of government is best, can only be decided by reference to the character and history of the particular nation. We are speaking now only of what the individual may demand, as a condition of his obeying "the powers that be." For one born under a particular system, it is only necessary to know that the established system secures the great ends of government, and lays upon him no com-

mand inconsistent with his duty to God. Yet in supposable cases, even the withholding of political power may be so flagrant an evil as to warrant resistance. We require some guaranty that natural rights shall not be violated. Such a guaranty may be afforded by the actual possession of a share of political power, especially when the individual is one of a class—the wealthy class for example—who are thus enabled, by uniting their political strength, peacefully to counteract threatened injustice. But when political rights are demanded as a guaranty for the secure possession of natural rights, the claim is equivalent simply to a demand for a government that shall defend the latter. Political rights are thus claimed only as a means to an end. The two categories of rights are properly distinguished.

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## ENGLISH LABOR IN AND OUT OF PARLIAMENT IN 1893.

THE quickening effect of the Parliamentary Reform Act of 1884 is now apparent in almost every department of English national life, perhaps in none more so than in all matters affecting labor. And it is natural that this should be so. Until 1885 the working classes in England could not be said to be adequately represented in the House of Commons. Those living in the boroughs had been voting for Members of Parliament since 1868, from the first general election which followed the Reform Act of 1867; but those living outside the boroughs were altogether unrepresented, and it was not until 1885 that the working classes as a whole possessed and exercised the parliamentary franchise. When once they possessed the franchise, and their votes became the objects of the solicitude of politicians, it is not to be wondered at that the working classes sought to turn their power to their own advantage as soon as possible.

The new democracy in Ireland, however, stole in ahead of the new democracy in England. Before the new working class electors in England had realized the value of their political possession, and could organize and make themselves felt in Parliament, Ireland, where the leaders at any rate of the new electorate were already well organized, stepped in with her demand for Home Rule. This demand had taken a parliamentary form nearly ten years prior to the Reform Act of 1884, but the Reform Act and the Redistribution of Seats Act by which it was accompanied, vastly increased the direct power of the Irish Nationalists, gave a new potency to the demand for Home Rule, and, until 1888, Ireland and her claims monopolized the attention of Parliament. When it was not Home Rule, as in the session of 1886, there was a Land Act or a Coercion Act; and for three or four years the new democracy in England got absolutely nothing from the enlarged and reformed House of Commons. But if Ireland thus for a time prevented the English working classes from

reaping any direct benefit from the reform of 1884, the Irish question and the permanently disintegrating effect it has had upon the old and now decaying system of two parties in the House of Commons, has of late greatly helped the labor movement in English politics. Without the split in the old Liberal party which followed Mr. Gladstone's conversion to Home Rule in 1886, labor legislation would not have been nearly so rapid, nor so socialistic, as it was in the closing years of Lord Salisbury's government, and as it has been during the first eighteen months of Mr. Gladstone's administration.

The leaders of both the party of Home Rule and the party of the Union are eager to secure the support of the new democracy in England. Since 1888 both have been bidding for it in Parliament, and the bidding has never been brisker or more eager and intense than in the first session of the present Parliament. It has been inevitable from the first that this Parliament must be short-lived, and that much of its time would be occupied with Home Rule, to the consequent exclusion of the long list of Radical measures embodied in the Newcastle Programme. These three circumstances, the desire to stand well with the new democracy, the likelihood of the life of the present Parliament being short, and at the best always uncertain, and the time monopolized by Ireland, account for the extreme eagerness on the part of the Government at least to place itself on the side of all labor movements in Parliament, even if these are not carried to any successful issue, and to make as many reforms as possible in the interests of labor in the various State Departments. Government legislation in the interests of labor, and the measures proposed by the labor politicians, need a large amount of time, if they are to be carried through Parliament, but there are numerous reforms which can be made through the State Departments merely by the stroke of a pen, and it is in making these reforms that the Gladstone government have already so greatly out-distanced their Unionist predecessors.

As regards actual legislation, the Liberal government has so far not done much more than was accomplished by

the Unionist government in the last two or three years of its existence. The amendment to the Employers' Liability Act of 1880, and the Railway Servants' Hours of Labor Act, which, up to the present, are the great measures in the interests of labor pushed forward by Mr. Gladstone's government, do not more than counterbalance the drastic amendments to the Mines Regulation Acts and the Factory Acts, all in the interests of labor, passed by Lord Salisbury's government; but as concerns departmental reforms to the same end, the Gladstone government is admittedly far ahead of the late Unionist administration.

Beginning with the measures in Parliament, and at the outset with the private bills and resolutions by which the hand of the government has been forced, first comes the Eight Hours Day Bill. This was a private member's bill, and was in charge of Mr. Samuel Woods, Vice-President of the Coalminers' Federation, and one of the two labor members in the House of Commons who are maintained there by the Federation. A private member's bill is one which originates with a member not of the ministry, and for which the government takes no responsibility. Each session a large number of these measures are introduced; but the limits of a session are always against them and but few of them are carried. Early in the session the members introducing these measures ballot for the few available days.

Mr. Woods was fortunate in this ballot, and secured the 5th of May for the second reading of the Eight Hours Day Bill. It applied only to coal miners. The measure occasioned great concern in the coal trade. The Miners' Federation sent its deputation to Mr. Gladstone to ask his support of the bill, and the Associated Coalowners sent their representatives to plead with him against any legislative interference with the working hours of adult labor. Midlothian is largely a mining constituency. Neither deputation obtained a conclusive reply from Mr. Gladstone; but when the measure was brought forward in the House of Commons, the Prime Minister announced that he intended to vote for the bill. He made some reservations—Mr. Gladstone always does—but he went into the lobby with the supporters of the bill.



As for his following in the House of Commons, it was given out that this was a bill on which each member was to vote as he liked, and the result was that the second reading was carried by a majority of 78, in a division in which 478 members voted. The Liberals and Radicals largely formed the majority; but the division was not on strict party lines. The majority was much larger than had been expected. It was large enough to have warranted the government in taking up the bill, or at least giving its promoters facilities for carrying it through committee and to third reading. But although these facilities were again and again pleaded for by Mr. Woods, they were not afforded, and the session of 1893 closed without further progress being made with the bill. This is a loss to the Miners' Federation; for Mr. Woods assured Mr. Gladstone in a letter he wrote on November 1st, one of a series of half-threatening, half-persuasive epistles, that "the agitation in favor of this bill up to the date of its second reading cost the miners no less a sum than ten thousand pounds, and an indescribable amount of trouble and labor." This failure to carry the measure beyond second reading, however, is not necessarily a loss to the government. Practically they are on record as supporting the bill, and the new democracy does not appreciate the parliamentary game sufficiently to understand that if the government had been as sincere and loyal to the measure as the demonstration in its favor on the 5th of May seemed to suggest, an eight hours day for miners might now be the law in England.

With the exception of Mr. John Morley and Mr. Thomas Burt, all the members of the Gladstone Ministry voted for the principle of interference with the hours of adult labor which was involved in the Eight Hours Day Bill. Before the vote of May 5th, the government, and the House of Commons as well, had accepted a similar principle in connection with the hours of closing of retail stores. This question was also brought before the House by a private member, not as a bill, but in the form of a resolution. The resolution was proposed by Sir John Lubbock, to whom England owes its bank holidays. The resolution set forth that in the opinion



of the House "the excessive and unnecessarily long hours of labor in shops are injurious to the comfort, health, and well-being of all concerned, and that it is desirable to give the local authorities such powers as may be necessary to enable them to carry out the general wishes of the shop-keeping community with reference to the hours of closing."

In the light of the legislation which has already been carried on this subject, Sir John Lubbock's resolution means that in a town where a majority of the shop-keepers are agreed as to an hour of closing, the town council should be entrusted with powers to compel the minority to fall in with the desire of the majority, and that when once the majority have signified their wish, a local by-law should come into force compelling all shop-keepers to close at the same hour.

In 1886 a Shop Hours Regulation Act was passed. Its object was to protect young persons under eighteen years of age, by enacting that they should not work longer than seventy-four hours a week. This limit is by no means a hard one, especially when it is contrasted with the limit of fifty-six and a half hours, rigidly fixed by the Factory Acts, for young persons engaged in the textile industries. The administration of the act of 1886, and of a measure amending it passed in 1892, was placed in the hands of the local authorities, who were empowered to appoint inspectors. Practically the act has been a dead letter, for the shop-owners are frequently a controlling force on the town councils, and only 36 out of the 275 local authorities entrusted with the powers have made any pretence of putting them into force. It now appears that the administration of the act will have to be transferred to the Home Office. Evidently the government are not indisposed to this step, for after Sir John Lubbock had stated the arguments in favor of his resolution, the Home Secretary, in behalf of the government, made a significant reply. "I think," said Mr. Asquith, "the whole of our factory legislation, beginning as it did with the case of women and children, has had the effect, indirectly it is true, of restricting the hours of labor, and I can see no difference in principle between direct interference in labor and indirect interference with trade. I think the

day has arrived when we may emancipate ourselves in all these matters from the thralldom of economic abstraction." The House of Commons accepted the resolution without a division, and the logical outcome must be a measure fixing the hours at which shops shall be closed.

The Home Secretary's repudiation of the "thralldom of economic abstraction" is significant as indicating many of the new tendencies in English politics. It is, however, only in keeping with other statements made in behalf of the government, and of measures proposed by the government in the parliamentary session of 1893. About the same time that Sir John Lubbock, with the help of the Home Secretary, carried his Shop Hours Closing Resolution, Sir John Gorst, who more than any other Conservative member has sought to secure the support of the working class electors for his party, proposed a resolution concerning the attitude of the government towards the humbler class of work-people in its service.

English civil servants are, on the whole, well paid, and have full security of tenure; but the artizans and laborers at the arsenals and the dockyards, heretofore, have been no better treated than those in the employ of ordinary capitalists, and often much worse paid. Sir John Gorst desired to remedy this, and asked the House of Commons to declare by resolution that "no persons should, in Her Majesty's naval establishments, be engaged at wages insufficient for a proper maintenance, and that the conditions of labor as regards hours, wages, insurance against accidents, and provision for old age, should be such as to afford an example to private employers throughout the country." As was the case with the Shop Hours of Closing Resolution, the House did not divide on Sir John Gorst's resolution. It was saved a division by the announcement from the Treasury Bench that the government were "not able to close their eyes to the change which had of recent years come over public opinion in England in the matter of the relationships of employers and employed, that the government had ceased to believe in competition wages, and would frame their contracts accordingly."

Another resolution brought forward by a private member, was that proposed by Mr. William Allen in favor of the payment of members of parliament. Only indirectly, perhaps, does this question affect labor; but it is one which has a prominent place in the programme of the labor politicians, and when the House of Commons was divided upon Mr. Allen's resolution, Mr. Gladstone and his supporters on the government benches took the same course as they did on the Miners' Eight Hours Day Bill. They voted with Mr. Allen, and carried his resolution by a large majority.

The measures so far described emanated from private members, and in two cases, those of Sir John Lubbock and Sir John Gorst, from members who are not supporters of the government. In all these instances the hand of the government was forced by the strength of the popular movement behind the movement in Parliament.

Apart from these measures, three bills were submitted to Parliament by the government, each of which involved a departure from the usages and traditions hitherto governing the actions of the government in the affairs of employers and employed. One of these measures was known as the Conciliation Bill, the other two are the Railway Servants' Hours of Labor Act and the Employers' Liability Bill.

Little need be said about the Conciliation Bill. It failed to become law. Under its provisions a conciliation board was to have been established in connection with the Board of Trade, and the services of the conciliation board were to have been at the disposal of the parties to a labor dispute when both desired them. There was no compulsion about the measure. It is doubtful whether it would have accomplished much good, as when parties to a labor dispute are willing to arbitrate, an arbitrator is soon forthcoming. It would, however, have worked little harm, and the measure might have passed, had it not been for clauses which empowered the Board of Trade to make official inquiries in disputes in which the assistance of the conciliation board was not sought.



Of the two government measures before Parliament in 1893, the most significant was the Railways Servants' Hours of Labor Act, for it was the first measure passed by Parliament directly interfering with the hours of labor of adults. The factory laws all indirectly interfere with the hours worked by men, as it is impossible to continue work in textile factories after the hours at which the law compels women, young persons, and children to quit work. For more than three-quarters of a century Parliament has been amending and extending the enactments of which the Health and Morals Act of 1802 was the forerunner, but not until 1893 did it pass a measure empowering the courts to impose penalties upon employers who overworked adult men. The pockets and limbs of men have been protected by numerous acts of Parliament, but hitherto Parliament has assumed that in the matter of the number of hours worked men were able to protect themselves, if not individually, then through their trade-union organizations. The act by which this new departure was made embodied the recommendations of a select committee of the House of Commons which was appointed during the closing years of the Salisbury administration.

It is intended to enable railway servants directly engaged in the handling of trains to make complaints to the Board of Trade that their hours of labor are excessive, or do not provide sufficient intervals of uninterrupted rest, or sufficient relief from Sunday duty, and to empower the Board of Trade to enquire into such complaints. When these complaints are substantiated, the board is to call upon the offending railway company to submit a schedule of time for the duty of the servants interested, "so framed as in the opinion of the board to bring the actual hours within reasonable limits, regard being had to the circumstances of the traffic, and the nature of the work performed." For failure to comply with the requirements of the board, the offending company may be fined by the Railway Court a sum not exceeding one hundred pounds for every day during which the default continues. In behalf of this new departure it was argued that the working of long hours by



railway servants was not a matter which concerned the men alone—that long hours were a danger to travel, and point was given to this argument by the terrible railway accident at Thirsk, while the bill was pending in Parliament.

The Employers' Liability Bill was one of the two Government measures to which the winter session of Parliament was devoted. The ordinary sitting of Parliament, that which lasted from February to the end of September, was unusually long; but, excepting the Railway Servants' Hours of Labor Act, absolutely nothing in the way of actual legislation had been done for the new democracy to whom so many promises were made by the Radicals at the general election in 1892. The Home Rule Bill had occupied the House of Commons for between eighty and ninety days, and unless the year 1893 was to be barren as regards legislation, the winter session was inevitable. This extra session lasted from November to January, and was divided between the Parish Councils Bill, a measure in the interests of the rural democracy, and the Employers' Liability Bill, which is mainly in the interest of urban labor. The original measure was the Employers' Liability Act of 1880, which was passed for a term of years. The term expired 1887, and the measure was kept alive year by year by means of the Expiring Laws Continuance Act. The act was intended, under certain well-defined conditions, in cases of accident, to give the workman "the same right of compensation and remedies against the employer as if the workman had not been a workman of, nor in the service of the employer nor engaged in his work."

The act of 1880 never worked satisfactorily. Hundreds of large employers made contracts with their workpeople excluding themselves from the operation of the act; others paid annual sums to insurance companies to carry their risks, and these companies fought the workmen from court to court, when they sought to take advantage of the law, and a large number of the cases resulted in verdicts for the defendants, who set up the doctrine of common employment, and endeavored to throw responsibility upon the injured man himself and the men who were working with him. The net result of the act, so far as suits in England are concerned,

was that although 1914 of these suits were taken into court, and £320,200 claimed as compensation by the plaintiffs, only £78,871 was recovered, or about an average of £40 per action.

From the time the act expired in 1887, the workingmen members in the House of Commons insisted that in the new or amending measure, there should be some limitation to the doctrine of common employment; that means should be devised for preventing a contractor who was worth suing from throwing his responsibility upon a sub-contractor, who is often unable to pay either damages or law-costs when a suit goes against him; that the act should apply to seamen; and above all that employers should be prevented from contracting themselves out of its provisions. The Government conceded all these points. There was an attempt to reject the contracting out clauses. It was made in the interests of the railway companies; but the working class leaders opposed any concession at all on this point—any substituting of insurance schemes by the railway companies for the bill itself, and the measure was carried practically as it came from the Grand Committee on Law, by which it had been considered in the earlier part of the session. This was a distinct triumph for the Labor Party in the House of Commons, as from the workman's point of view in many particulars and details, besides those which have been named, the bill of 1893 is a vast improvement on the act of 1880, and on the bill of 1888 which Mr. Matthews, the Home Secretary in Lord Salisbury's administration, unsuccessfully sought to carry through Parliament.<sup>1</sup>

Turning from Westminster to Whitehall, from Parliament to the various administrative departments, there is scarcely a department in which in one form or another the new interest of the government in behalf of labor is not to be seen. It

<sup>1</sup> The Employers' Liability Measure of 1893 has not been written of as an act. At the date of writing it could not be so styled. It had passed the House of Commons in the form described, but had come back from the Lords with an amendment, which re-introduced the arrangement under which employers were allowed to contract themselves out of the provisions of the measure. This amendment was awaiting the consideration of the House of Commons when this article was revised.

is apparent at the Board of Trade, at the Home Office, at the Education Department, in the Department of Public Works, at the War Office, at the Local Government Board, at the Post Office, and in the Departments of the Lord Chancellor and the Chancellor of the Duchy of Lancaster.

The Department of Public Works was the first to make a movement in the new direction. Soon after Mr. Shaw Lefevre took office as First Commissioner, his department had to deal with the old prison at Millbank, which was built in the days of Bentham, and on lines suggested by that reformer. For some time the prison had been disused, and the site on the Middlesex bank of the Thames, between the Houses of Parliament and the Chelsea Embankment, was needed for the Tate Art Gallery, and for blocks of tenement dwellings to be erected by the London County Council.

Under ordinary circumstances the Board of Works would have sold the old material to the highest bidder without imposing any special conditions of sale. But in the winter of 1892 the cry of the unemployed was again, as in several previous winters, making itself heard in London, and some steps had to be taken to show that the newly elected Liberal government had some practical sympathy with the unfortunate people who were raising it. Accordingly, when Millbank was to be demolished, a new departure was made. At the sale of the old materials at public auction, the Board of Works introduced a clause in the conditions by which the purchasers bound themselves not to pay less than sixpence halfpenny an hour to laborers, skilled or unskilled, engaged in pulling down and clearing away the materials of the prison. From the dock strike of 1889 sixpence an hour had been accepted as a fair rate of wage for unskilled labor in London. Before that time it was fivepence. This was the first time the government had ever interfered in fixing wages of workmen not directly in their employ.

Further than this, the government did away with the middle man in pulling down and clearing away one of the six pentagons which comprised the prison. For this work, men who would otherwise have been unemployed were engaged, and under the superintendence of officials repre-



senting the Board of Works, at one time as many as 122 were at work. The time occupied was nearly four months, and £1644 was paid out to the men at the rate of sixpence halfpenny an hour. The object of the experiment was to ascertain what could be done in the way of restricting the employment of middlemen in work undertaken at the public expense. Work on the building was given to the first comers. It was subsequently reported to Parliament that these men "worked very fairly at first, though from their ignorance of the proper methods the results achieved were inadequate; but as time went on they drifted away to other and more congenial work." The pulling down of buildings comes near to being a skilled occupation; the men engaged on the pentagon pulled down by the Board of Works were mostly unskilled laborers, all new to this kind of work, a circumstance which explains the remark in the report to Parliament, that although the wages paid to the laborers who were in the Government service were hardly more than half what the skilled pullers-down demand, in very few instances did the contractors engaged in pulling down the other five pentagons take on men of the unemployed class or consider that there would be any economy in doing so.

Still the experiment was not a failure. All the six pentagons forming the jail were of exactly the same size and roughly speaking contained the same materials. For five of the six, the old materials sold for under one thousand pounds each, while the materials forming the pentagon pulled down by the men in the employment of the government realized about £1,060, after all expenses were paid. This experience, like that of the London County Council of about the same date with the construction of the large main sewer in South London has strengthened the demand of the labor leaders that in connection with all Government work, as with all work undertaken for the municipalities, wherever it is possible, the intervention of a contractor shall be dispensed with, and that every man engaged on the work shall be in the direct service of the Government or the municipality, and under the superintendence of its officers.



In no State Department has the new activity and zeal for the cause of labor been more marked than at the Board of Trade, of which Mr. Mundella is now the President, and Mr. Thomas Burt, the first workingman member of the House of Commons, the Parliamentary Secretary. Years ago, largely at the instance of the late Mr. Charles Bradlaugh, Lord Salisbury's government established a Labor Department in connection with the board. At that time labor was less prominent in English politics than at the present time. Mr. John Burnett, who had been General Secretary of the Amalgamated Society of Engineers, was appointed Labor Correspondent. He constituted the whole of the staff of the Department, and was hidden away in a little back office in the rambling old building at the back of the Banqueting Hall at Whitehall in which the staff of the Board of Trade are housed. About the only result of Mr. Burnett's labor was a meagre bulletin, issued monthly to the press, in which was contained the out-of-work statistics of those trade-unions which cared to furnish them to the Labor Correspondent.

When Mr. Mundella succeeded Sir Michael Hicks-Beach at the Board of Trade, he revolutionized the Labor Department. A new office building was secured in Parliament Street, and instead of the one official who had been in charge since about 1886, Mr. Giffen was appointed Chief Commissioner for Labor, Mr. Burnett became Chief Labor Correspondent, three other Labor Correspondents were appointed, one of them a woman, and a force of thirty clerks was assigned to the newly organized bureau. All these officers are engaged at, or associated with the office in Parliament Street. In addition to these, Labor Correspondents were appointed at twenty-five centres of industry in England, Wales, Scotland, and Ireland, and a monthly journal, known as the "Labor Gazette," was established for the purpose of publishing the reports and labor statistics collected by the department. "With mere questions of opinion," wrote the editor of the new official paper, in the initial number, published in May, "the 'Labor Gazette' will not be concerned. The aim of the Department in the publication is to provide a sound basis for the formation of opinion, and not to sup

ply opinions." This is done by giving carefully made summaries of all official reports and statistics which in any way concern labor, reports of all cases of interest to labor which come before the law courts, detailed reports from the local Labor Correspondents, and extracts from the Colonial, Consular, and Foreign Office papers, which in any way throw light upon the labor question in the colonies and abroad.

Nor is the organization of this bureau the only movement which the Board of Trade has made in the interests of labor. It was this department which promoted the Conciliation Bill which, as has been explained, failed to pass the House of Commons. The department has also used its power and influence in behalf of labor at seaports. It has the power of nominating a certain number of members on the local Marine Boards, and during the last twelve months it has used this power in order to place seamen on these boards, generally the organizing representatives of the Seamen's and Firemen's Federation, one of the newly-established trade-unions, and one in which the spirit of the new unionism is the dominating force.

A somewhat similar appointing power, possessed by the Lord Chancellor and the Chancellor of the Duchy of Lancaster in connection with the magisterial benches in the boroughs, has also been freely used for the advantage of the local leaders of the labor movement. Hitherto borough magistrates have been drawn from the manufacturing and trading classes. Since Mr. Gladstone's government came into office, between seventy and eighty working men have been appointed to the borough benches. Nearly all of them are trade-unionists, most of them trade-union officials. The office to which these men are appointed is honorary, the duties and responsibilities are not heavy, and a place on the borough bench gives a man some local distinction.

At the Home Office the new movement is manifest in several directions. The Factory Laws and the Mines Regulation Acts are being worked with increased stringency; fifteen or sixteen additional factory inspectors of a new grade have been appointed. All of them were drawn from the ranks of working men. Several women inspectors were also

added to the factory department's staff; and the Home Office, with the aid of the Local Government Board, has attempted for the first time to secure an oversight of out-workers in several industries. This new departure is intended to prevent sweating, and the employment of people in unsanitary workshops. Increased vigilance is also being exercised over employments dangerous to health.

The Local Government Board, the department which has control over municipal affairs and over Poor Law administration, has coöperated with the Home Office in the duty of supervising out-workers, and as a department it has identified itself in other directions with the new movement in the cause of labor. Labor representatives have, of late years, been gradually making their way on to town councils and school boards. They also turned their attention to the Poor Law Boards, but found themselves ruled out by the high rating qualification which most of the Poor Law Boards had established for membership. Over every detail of the administration of the Poor Law the Local Government Board possesses great power. As soon as Mr. Fowler, the present President of the Local Government Board, took office, deputations of Radicals and labor representatives waited upon him to ask for a reduction of the rating qualification. Mr. Fowler at once complied, and issued an order reducing the qualification to a five pound rating assessment in every union, thus making it as easy for a working man living in a small house to become a candidate for a Poor Law Board as for a town council or a school board.

At the Admiralty and the War Office the new spirit has found expression in efforts to improve the position of the laborers at the gun factories, the arsenals, and the royal dockyards. An eight hours' day has been adopted in these departments, and at Woolwich and Sheerness the wages of laborers have been advanced from eighteen shillings to nineteen shillings a week. The new rate, however, is still five shillings a week below the minimum wages fixed by the London County Council, on which body the Radicals are in full control. In addition to this slight advance in the rate of pay for unskilled laborers, the Admiralty has put an end to



systematic overtime in all its establishments, with a view to spreading the work to be done over a larger number of men, and thus in some measure reducing the number of the unemployed.

All these changes have been in the interests of unskilled labor. In the interests of skilled labor, the Admiralty has enforced clauses in contracts which call upon contractors to pay all their men the rate of wages recognized as fair in the neighborhood in which the work is done. The labor leaders have urged that the words "trade-union rates" should be substituted for the words "fair rates" in these government contracts; but this change has not yet been made. The Admiralty has, however, struck off its lists of contractors firms who refused to interpret the word "fair" in accordance with its interpretation; and in connection with work for the Admiralty, as for all other government spending departments, it is now useless for a firm to tender which has not made up its mind to pay all its workpeople a fair rate of wages.

The Post Office is the only State Department which is conducted on an exclusively profit-making basis. It is conservative in its ways, and has been affected less than the other departments by the interest of the government in the cause of labor. It still adheres to the pernicious system under which thousands of men who are doing its work are not in its employ, and it still pays miserably low wages to its rural letter-carriers. But on two points even the Post Office has had to bow to the new spirit. It now permits its less well paid servants to organize for their own protection like other working people, and within the last few months it has withdrawn the ukase which prevented either the letter sorters or the telegraphists from holding meetings to discuss their grievances without the attendance of official shorthand writers.

At the Education Department the new spirit is perhaps best seen in the code for the teaching of citizenship which Mr. Acland, the Vice-President of the Council for Education, has drawn up for use in the state-aided evening schools. This subject was added to the curriculum of these schools at



the instance of the Trade-Union Congress and the Coöperative Conference, both working class organizations. Much of the new spirit towards labor is embodied in the code. The keynote as regards labor is given in the concluding paragraph, which dwells upon "the duty of the community to sympathize with every effort of the workers to improve their condition, and develop their intelligence."

Outside Parliament and the State Departments, the most significant features in connection with labor politics in 1893 were the intervention of the Government in the coal strike of 1893, the adoption of a resolution in favor of "the principle of collective ownership and control of all the means of production and distribution," by the representatives of 900,000 trade-unionists taking part in the twenty-sixth annual Trades-Union Congress held at Belfast, and the endeavors which were made at the municipal elections to elect labor representatives to the town councils.

The movement of the labor politicians to secure a share in the administration of municipal affairs is much more recent than the movement which has resulted in the presence of fifteen or sixteen labor Members in the House of Commons. It dates back for only three or four years; but each succeeding year the movement has gained strength and developed itself in new places. It is strongest in the North of England, where at the November elections there was hardly a town with a large industrial population in which labor candidates were not nominated, generally on an out-and-out socialistic platform. In some places the Liberals refrained from nominating candidates in opposition to them; in others the labor candidates opposed both Liberal and Conservative candidates. The successes of the labor candidates were comparatively speaking few; but the determination with which the labor party went into the contests and the persistent efforts they are now making in the direction of organizing in the municipalities seem to warrant the belief that the middle classes will before long lose some of the exclusive hold which they have had since 1835 on the administration of municipal affairs.

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## BOOK NOTICES.

*The Mark in Europe and America.* A Review of the Discussion on Early Land Tenure. By Enoch A. Bryan, A.M., President of Vincennes University, Indiana. Boston, Ginn & Company, 1893—12mo, vi, 164 pp.

This little volume offers a convenient summary of the main arguments now advanced against the hypothesis that a free village community was the prevalent form of social organization among the Germans or peoples of Germanic extraction during any known historical period. The author says that he has tried to write with suspension of judgment, but his essay nevertheless has a rather polemical tone. This perhaps arises from his directing much of his criticism to exaggerated generalizations in regard to the mark. For example, he says: "The question then for us to consider is, Does Tacitus present to us the Teutonic Mark? Do we find in his writings \* \* \* the picture of a social organization characterized by democracy, equality and agrarian communism, such as we have been told was the fundamental institution of Teutonic Society." That Tacitus does not present such a picture is very easy to prove. But, perhaps at the expense of exhibiting unfamiliarity with the subject, I venture to doubt if the more scholarly expounders of the mark theory ever maintained that Tacitus presented a picture of a social organization characterized by *democracy, equality, and agrarian communism*. Modern popular writers, perhaps, are too apt to regard equality as implied, on the one hand by democracy, and on the other by common property in land. But they are all separate things, and do not in the past necessarily involve each other. Mr. Bryan easily disproves the existence of social equality in the Germany of Tacitus, and apparently concludes that he has shown that the polity was not democratic. Against the existence of a 'primitive democracy' he cites the existence of "kings, chiefs, priests, nobles, freeman, freedmen, serfs, and slaves," facts which disprove equality, but not a predominantly democratic polity. Social inequality with a polity largely democratic appears clearly in Tacitus' pages. Democracies have always co-existed with inequality. Further, he says, "The predominating influence of the chiefs in public concerns is clearly set forth," and refers to

chapter ii. but chapter ii. begins: "*De minoribus* rebus principes consultant, de *majoribus* omnes, ita tamen ut ea quoque, quorum penes plebem arbitrium est, apud principes pertractentur." The passage does not bear out Mr. Bryan's use of it as an argument against the democratic character of the German polity.

Mr. Bryan reviews the interpretation of the vexed passage in chapter xxvi. and offers a translation for it, but his version suffers from the same obscurity as the original. *In rices* is translated "in turn," but he offers no suggestion as to what "in turn" means, although it is one of the crucial phrases in the passage. The chapter on the "Mark in America" is a piece of wholesome criticism, yet one cannot help feeling that Mr. Bryan is to some extent beating a man of straw.

It has often seemed to me that those who discovered the mark in America were only half serious, that they were playing with a fascinating analogy between things, that on the whole had no assignable connection. The chapter on "the Mark in Economic Discussion," discusses the socialistic use of the mark theory. Mr. Bryan illustrates the use made of the supposed existence of the mark in the advocacy of changes in the modern land system and apparently believes that a disproof of its existence is the main security against rash experiments. The importance of such disproof, if made out, is considerable, but even if the mark did exist, that offers no presumption that it should be restored by legislation. The doctrine of evolution is presumably in conflict with any and every proposition to restore discarded or outgrown forms of social organization. Yet such an inveterate *laudator temporis acti* is man, that for every community the ideal reconstruction of the past is inevitable, and the temptation for legislators to try to restore it, a considerable source of peril. The unhappy attempt of Agis to restore the ideal Sparta of Lycurgus may yet have its lesson for modern times.

A few misprints may be noted, p. 33, Ulpian, p. 42 Recherche, p. 93 anti for ante-, p. 145; *pas* for *par*; p. 159 line 2, *de la* omitted; p. 49 *familie* for *famille*; p. 133 Aristotle's Politics cited as "Republic." On p. 7 is the phrase "so classic an economist as Mill." This seems to me an incorrect usage. It should read "so strong an adherent of the classical school."

EDWARD G. BOURNE.



*Comparative Administrative Law* An analysis of the administrative systems, national and local, of the United States, England, France and Germany By Frank J. Goodnow, Professor of Administrative Law in the University Faculty of Political Science, Columbia College. Two volumes. New York, G. P. Putnam's Sons, 1893—xxix, 357, viii, 327 pp.

To an American who undertakes the comparative study of public law perhaps the most striking difference between the legal literature of continental Europe and that of England and America is the multitude of treatises on administrative law offered by the former and the entire absence of any such work in the latter.

That administrative law has not been treated as a whole and separate from other branches of public law is ascribed by Professor Goodnow to the "well known failure of English law writers to classify the law." It may reasonably be urged, however, that this explanation is not sufficient. English law writers have classified the law according to convenience; if not scientifically, yet for practical purposes, perhaps, rather the better on that account. That administrative law has not been dealt with, here or in England, as a separate branch, is some indication that the fundamental differences between the English and the Continental conceptions of public relations are greater than would appear from Professor Goodnow's volumes; perhaps that Professor Dicey's views are not so radically wrong as they are made to appear.

This work could hardly have been written by one who had not been trained in Germany or France. Therefore we may be glad that Professor Goodnow had such training, for his book is a valuable addition to the literature of public law. It is confessedly a supplement to the earlier work of Professor Burgess on *Comparative Constitutional Law*, and deals only with the law of the same four countries. It is not likely that it will have the same popularity, for its somewhat drier details will be less attractive to the general reader. It is, however, decidedly the better work. The author does not dissent from the political dogmas of his colleague, and adopts (with occasional lapses) his invariable designation of "Commonwealth" for the States of Germany and America; but, although his treatment of administration in the member States begins with regarding them as mere "Localities," he deals with them in effect as the States they are.



The account of the German administration is rather less satisfactory than the rest, not from any lack of competence, but apparently rather from very thoroughness of knowledge. It would seem that in his own familiarity with German law Professor Goodnow had somewhat forgotten how difficult of comprehension the complex relations of the Empire and the States are to most readers. True, the federal relations belong more to Professor Burgess' work, but it is precisely in this respect that his untenable theories of Sovereignty and the Nature of the State have made his book of least value. An example of misleading lack of clearness is the account of the customs administration on pages 277 and 288 of the second volume. Most readers would unquestionably understand that the customs tariff is primarily a State affair, subject to some unexplained control of the Empire, and that the sums turned into the Imperial treasury on customs account were part of the matricular contributions from the States, which is wide of the truth. It is perhaps as well to omit all mention of the effects of the preposterous "Frankenstein'sche Clausel" in complicating an already sufficiently complicated matter.

On the whole the defects of Professor Goodnow's book are of small moment in comparison with its merits, and he is to be congratulated on a useful and timely work well performed.

E. V. RAYNOLDS.

*Florentine Life during the Renaissance.* By Walter B. Scaife, Ph.D. (Vienna). Baltimore, The Johns Hopkins Press, 1893—8vo, viii, 248 pp.

Mr. Scaife has brought together into an entertaining and instructive volume the scattered notices of the original authorities, and of later authors, on the public and private life of the Florentines at the most interesting period of their history. The first chapter is introductory, on the general position of Florence in the Renaissance movement and on the characteristic traits of her citizens. In four chapters, on the government, on public life, on charity, public works and taxation, and on citizenship, we have a fuller account of the public activities of the times than is easily accessible elsewhere. Mr. Scaife points out, but refrains from developing, some suggestive parallels between the public life of Renaissance Florence and that of the United States to-day. The chapter on private life is of especial value because of our scanty

information on the subject. The author argues, against Burckhardt, that woman was not considered, as a general rule, in Florence at least, to be the equal of man. The point is one of considerable importance in its bearing on the general conditions in Italy which gave that country the lead in intellectual matters, and turned the energies, awakened by commercial and political activities, into a revival of learning, at a date when the rest of the world showed only the slightest traces of such a tendency. To be an important indication of those conditions, however, it is not necessary that the general opinion should place woman, as a class, upon a level with man. The most advanced nations have hardly as yet reached that position in actual practice. The special cases which are admitted, the exceptional opportunities of woman in Italy, as compared with other countries, are all that is required for the purpose. His general thesis Mr. Scaife must be considered to have proved. Other subjects treated are education and intellectual life, religion and superstition, commerce and industry, and amusements. Students of the period, now so much more earnestly studied than formerly, must be grateful to the author for his treatment of this side of their subject.

G. B. A.

*The Distribution of Wealth.* By John R. Commons, Professor of Economics and Social Science, Indiana University. New York, Macmillan & Co. 1893—x, 250 pp.

The most important idea of this book, as far as it can be summed up in a few words, seems to be this: Monopoly—whether of land, of ability, or of valuable franchises—gives its possessor a more or less exclusive right to sell a large number of opportunities for production. "Monopoly profits therefore increase both when the monopoly privilege offers wider opportunities for the sale of products in larger quantities or at higher prices; and also when there is a lessening of the expenses to be paid for the services of the coöperating factors." The differences in value, he thinks, turn more on the first of these points than on the second. By the aid of this analysis he is able to show, in lucid fashion, the relation of different forms of monopoly to one another, and to the competitive factors in production and distribution.

While recognizing the value of this analysis, we cannot agree with the author's practical line of inferences. When he says, on

page 46, "There are two ways in which the individual increases his share of the total product of society; first, by limiting the supply of his product, and second, by increasing the sales as widely as possible," he falls into a reversal of facts. The second is the important thing; the first a secondary and usually unsuccessful element in the attempt to make money. The author bases his whole theory on the fallacy that men, as a rule, make money by hurting society. He has gone back from the conception of trade as a means of service to that of trade as a means of extortion; and stands on substantially the ground which has proved such a source of weakness to trade-union leaders in every age. How little use he makes of actual economic history may be inferred from the statement that "Public property in land, capital, and monopoly privileges is simply the legal means of determining that the fruits of these instruments and privileges shall be directed immediately to the use of government and the whole people, instead of to the emolument of private proprietors." This from Indiana!

It is characteristic of the author's method that, while he constantly speaks of the excess of return above cost, he has nothing to say of the deficiency of return below cost. In his theory of interest he uses the words "product *obtained*" when he obviously means product *expected*. He speaks of the monopoly profits represented by the \$331,000,000 of net earnings of United States railroads in 1890, when in point of fact this was less than interest on the capital invested. His bias, and at the same time the absence of training which would correct it, may be inferred from the following statement on page 257: "Among the many ways in which profits are concealed may be mentioned the tendency to keep up the capitalization of original improvements and investments, without making those allowances for depreciation which would be allowed in competitive enterprises." This, it will be seen is a method of concealing *losses* and not profits, and vitiates the very argument which the author uses it to support.

We trust that Professor Commons will write more. His lack of familiarity with facts is due to his training in the so-called historical school, and will wear off. His real power in analysis is something thoroughly his own, and is likely to increase as time goes on.

A. T. H.

*History of the Philosophy of History.* By Robert Flint, Professor in the University of Edinburgh. New York: Charles Scribner's Sons. 1894—8vo, xxvii, 706 pp.

It is nearly twenty years since Professor Flint published the first volume of what was intended to be a full review of the attempts which have been made in the different countries to set forth the philosophy of the history of mankind. That volume comprised a review of the literature of the subject in France and Germany. Italy and England were to be dealt with in a similar way in a subsequent volume. Other official and literary engagements of an imperative nature, from which the public has largely profited, have detained him from accomplishing his plan. Now, after this long interval, he judges it best to revise the plan, partly for the purpose of giving to the discussion greater unity and less the character of a series of dissertations. The result is that the previous volume is superseded by the present, which relates to France alone,—Germany, Italy and England to be taken up later, and without too much delay. The earlier volume was justly regarded by competent judges as exceedingly able and instructive. Its successor is a decided improvement upon it, and is a masterly treatment of the theme. Professor Flint has abundant qualifications for his task. His studies have a very wide range; his learning is acquired at first hand; he is fettered by no traditional prejudices; he has a strong philosophical grasp of the problems to be considered; and, while clear and outspoken in his criticism of authors, he is quite free from an unreasoning dogmatism. One cannot read the opening chapter without perceiving that the author has a full comprehension of the field over which he is to lead the reader, and that he is in all respects an adequate guide. Professor Flint reserves the announcement of his own philosophy of history until the close of his critical survey, when it can not only be announced but also intelligently vindicated. But in this opening chapter he shows satisfactorily that there *is* both a science and a philosophy of history. The volumes that are to follow will be awaited with much interest.

G. P. F.



*Henry of Navarre and the Huguenots in France.* (Heroes of the Nations.) By P. F. Willert, M.A. New York, G. P. Putnam's Sons, 1893—12mo, illustr. v. 478 pp.

Henry IV's career ranged so completely through the gamut of human experience as to present some feature certain to prove attractive to every kind and condition of man. Good fighter, good friend, good politician, above all good fellow, he used the world he lived in, as the phrase goes now-a-days, "for all it was worth," and the world is not disposed to judge the royal prodigal too harshly. The story of his highly diversified life touches in some degree the entire series of questions, social, political, and religious, which came up for reconstruction during the transition period between the middle ages and modern times. There is plenty of entertainment to be found in the first four decades of this career, rich in achievement and adventure; its chief interest, however, both to the historian and the economist, lies in the period after he had fairly fought his way to the throne, and was able to develop—imperfectly we may be sure—the controlling idea of his life.

Mr. Willert's monograph, which deserves a high place in a creditable and already successful series, presents a clear and fairly comprehensive picture of France at this critical point in her history. His good judgment is especially noticeable in his treatment of those questions which have been subjects of more or less acrimonious controversy during three centuries. Henry's indifferent loyalty to his convictions, his sacrifice of consistency to interest, his apparent ingratitude to former supporters, are discussed from the reasonable standpoint of the man of affairs, rather than the student or theologian, and a little reflection will show how unwarrantable it is to measure this product of his age and environment by our own standards of policy or morality. When compelled to decide between a heroic constancy to creed and the prospect of terminating the civil war, it was no academic question between right and wrong that presented itself to the King's philistine common-sense, but a simple choosing of the lesser of two evils when a choice had become imperative. Again, as to those complainants who allege the King's willful disregard of the Huguenots down to the promulgation of the Edict of Nantes, Mr. Willert retorts. "We may fairly ask those who accuse Henry IV. of neglecting the interests of the Protestants, to point out the time previous to 1598 when he could not only

have promulgated an edict securing to them equal rights, toleration, and liberty of worship, but also have enforced such a law." Grief and disappointment may have been quite too keen among the outraged religionists to forgive the man who merged the champion in the statesman and sovereign, but it is not impossible to do justice to Henry in a century when the principle of toleration has been removed from the region of polemics. Whatever his enemies may say, it must be allowed that Henry was decidedly in advance of his age as to the real wisdom and worth of religious sufferance.

One of the maxims in that extraordinary monument of Sully's self-esteem, the *Économies royales*, bids the sovereign beware lest any element in the state escape his service in one or another capacity. The sentiment may or may not have come from the lips of Henry IV, but it compresses into half a line the whole of his policy after the King of Navarre became King of France. To make use of every possible factor for promoting peace and the establishment of his throne brought Henry sometimes to strange shifts, yet no ruler—even Cromwell, whose political development was in the opposite direction—was ever driven by his necessities to more fantastic contradictions. That he did not become bewildered by the magnitude and complexity of his task, is in itself some proof of Henry's greatness. Problems that would have overwhelmed another seem to have only spurred this child of the Renaissance to greater activity, to exertions of such magnificent proportions as to excite a sort of consternation in merely reading of them. The balance which resulted from this energetic spirit, and Sully's plodding and methodical mind, probably put France in a better state than either could have done alone, though the preponderating element was indubitably the King's. And this suggests Mr. Willert's not altogether satisfactory reference to the *Grand Dessin*, that comprehensive rearrangement of the states of Europe which, in common with other recent writers, the author is inclined to attribute entirely to Sully's egotistical invention. Perhaps the best argument that might be advanced in favor of Henry's authorship in this scheme is the absence of any creative faculty in Sully's mental constitution. One cannot easily conclude that such a conception matured unaided in so humdrum a brain. During those long discussions with his minister, when the better traits of the King arose superior to his grosser nature, it does not seem inconsistent with what we

know of the man to credit Sully's assertion that some such plan was often the topic of their conversation. The importance of the "Christian Commonwealth" is due not to its details as presented by the unimaginative Sully but to the main principles involved. To destroy the Hapsburg preponderance and establish a European equilibrium were the clearly defined aims of Henry's foreign policy, and became his legacy to his dynasty. Too practical himself to dream of rendering war infeasible by any political arrangement, he could, nevertheless, fight to the end of rendering further fighting more difficult and unprofitable. This at least was the ruling motive which guided his preparations for the campaign against Juliers—a statesman-like design which Henry's undignified passion for Charlotte de Montmorency may very likely have precipitated, but which it grossly belies the King to ascribe to a "senile and adulterous passion."

On the whole Mr. Willert's volume may be commended as singularly fair and accurate. There is the least trace of prejudice against the Guises in his version of the massacre of Vassy, a failure in setting forth satisfactorily the real point of weakness in the edict of Nantes, some indications of haste, perhaps, in the two concluding chapters where the narrative reads less smoothly than in the others; but these are blemishes hardly serious enough to mention. He prefers to write Aubigné, instead of D'Aubigné, which is correct, though rather against common English usage, but to be consistent he should not have written D'Amours, DeThou, D'O, D'Ossat, and the rest, in all of which, as in D'Aubigné, the preposition has practically become a part of the name.

FREDERICK WELLS WILLIAMS

*Europe, 476-918.* By Charles Oman, M.A. New York, Macmillan & Co., 1893—12mo, viii, 532 pp.

This volume is the first in order of a series which is to cover the whole of European history in eight volumes, of which the seventh, by H. Moore Stephens, on the period from 1789 to 1815, has already appeared. The especial merit of this book is that it represents, in the main faithfully, the most approved opinion and the results reached by the best investigators. The old fables, so long repeated in books of this sort on many points, have disappeared, and their place is taken by a statement of the real facts as they probably occurred. It is easy to see, although no references are given, that the author is usually thoroughly familiar



with the sources and that, where he follows others, he has selected the best guides. Occasionally something of this sort has been overlooked—for example, he evidently is not familiar with Brunner's brilliant study of the introduction of service on horse-back into the Frankish army. The book is mainly concerned with the facts of general political history. Almost no attention is given to the history of civilization, or even to the relation of the facts to one another. By far the weakest part of the book is that which relates to institutional history. Perhaps the criticism is uncalled for, as the subject may have fallen without the author's plan, but where anything is attempted, as on Carolingian institutions, and on the forming ecclesiastical organization, the account is wholly inadequate, and surely so important a matter as the formation of the feudal system, which falls within this this period and not within the next one, should not have been passed over in entire silence. But in its especial field, as a reference book concerning the facts of political history, the volume will be found very useful.

G. B. A.

*Civilization during the Middle Ages, especially in relation to Modern Civilization.* By George Burton Adams, Professor of History in Yale University. New York, Charles Scribner's Sons, 1894—8vo, 863 pp.

The design of this work is not to relate the facts of medieval history. A knowledge of the most important facts is presupposed. The design of the author is to describe the chief historic elements which enter into our civilization, in their inception, their mutual relations and their orderly development. Beginning with a concise survey of "What the Middle Ages started with," the contribution made by Christianity, and the fall of the Roman Empire, he proceeds to depict, in their proper succession, the essential changes and the characteristic features of the Medieval Era down to the Protestant Reformation. Unnecessary reference to authors is avoided, unessential details are excluded, and the effort is made to present a lucid and readable, as well as thorough and scholarly, retrospect of the period which was the seed-plot of our modern life. The relation of the author to the *YALE REVIEW* is a reason for leaving the critical judgment of this work to other journals, but I may go so far as to express the opinion that the aim which the author set before him has been fully attained.

G. P. F.



## BOOKS RECEIVED.

- ADAMS, CHARLES FRANCIS. *Massachusetts, Its Historians and Its History. An Object Lesson.* Boston and N. Y., Houghton, Mifflin & Co., 1893.
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- ADAMS, HERBERT B. *The Life and Works of Jared Sparks.* Boston and N. Y., Houghton, Mifflin & Co., 1893, 2 volumes.
- ANDREWS, NEIL. *The Development of the Nominating Convention in Rhode Island.* Papers from the Historical Seminary of Brown University, Providence, R. I., 1894.
- BAKER, FLORENCE E. *A Brief History of the Elective Franchise in Wisconsin.* Madison, Wisc. Hist. Soc., 1894.
- BEMIS, E. W. and others. *Local Government in the South and Southwest.* Johns Hopkins University Studies in Historical and Political Science, XI Series, number XI. Baltimore, Johns Hopkins Press, 1893.
- BOSANQUET, BERNARD. *The Civilisation of Christendom and Other Studies.* N. Y., Macmillan & Co., 1893.
- BRADFORD, AMORY H. *The Pilgrim in Old England. A Review of the History etc. of the Independent (Congregational) Church in England.* N. Y., Ford, Howard & Hulbert, 1893.
- BROWN, JAMES BALDWIN. *Stoics and Saints. Lectures on the Later Heathen Moralists, and on some aspects of the Life of the Medieval Church.* N. Y., Macmillan & Co., 1893.
- CARUS, PAUL. *Primer of Philosophy.* Chicago, Open Court Pub. Co., 1893.
- CLEMENT, The Homilies of. Index to the Publications by the Trustees of the Light-foot Fund. London and N. Y., Macmillan & Co., 1893.
- Sophocles, The Tragedies of,* Translated into English by Edward P. Coleridge. London and N. Y., George Bell & Sons, 1893.
- COMMANS, JOHN R. *The Distribution of Wealth.* N. Y., Macmillan & Co., 1893.
- COXE, BRINTON. *An Essay on Judicial Power and Unconstitutional Legislation. Being a Commentary on Parts of the Constitution of the United States.* Philadelphia, Kay & Bro., 1893.
- DAVIS, JOHN P. *The Union Pacific Railway. A Study in Railway Politics, History, and Economics.* Chicago, S. C. Griggs & Co., 1894.
- DE BUSTAMANTE Y SIRVEN, DR. D. ANTONIO S. *El Orden Público, Estudio de Derecho Internacional Privado Leído en la Apertura del 8º curso de la academia de Derecho de la Universidad de la Habana el Domingo 5 de Nov. de 1893.* Habana "La Universal," 1893.
- Downing's United States Customs Tariff, 1890.* N. Y., R. Downing & Co.
- DRAKE, SAMUEL A. *The Making of Virginia and the Middle Colonies, 1578-1701.* N. Y., Chas. Scribner's Sons, 1893.

- FLINT, ROBERT. *History of the Philosophy of History*. N. Y., Charles Scribner's Sons, 1894.
- GOODHART, H. C. *The Eighth Book of Thucydides' History*. N. Y., Macmillan & Co., 1893.
- GUZZER, H. A. *The Myths of Greece and Rome*. N. Y., American Book Co., 1893.
- GWATKIN, HENRY M. *Selections from Early Writers Illustrative of Church History to the Time of Constantine*. N. Y., and London, Macmillan & Co., 1893.
- HAMMOND, MATTHEW B. *The Financial History of Wisconsin Territory*. Madison, Wisc., Wisc. Hist. Soc., 1894.
- HAYNES, JOHN. *Popular Election of United States Senators*. Johns Hopkins University Studies in Historical and Political Science, Series XI, number XII. Baltimore, Johns Hopkins Press, 1893.
- Italian Lyrics of To-day*. Translated by G. A. Greene. London, E. Mathews and J. Law. N. Y., Macmillan & Co., 1893.
- HYATT, CHARLES H. *The English Citizen. His Life and Duties*. N. Y., Macmillan & Co., 1893.
- LADD, GEORGE T. *Psychology, Descriptive and Explanatory*. N. Y., Charles Scribner's Sons, 1894.
- LIGHTFOOT, J. B. *Biblical Essays*. London and N. Y., Macmillan & Co., 1893.
- MALLOCK, W. H. *Labour and Public Welfare*. London, A. & C. Black. N. Y., Macmillan & Co., 1893.
- MOELLER, W. *History of the Christian Church in the Middle Ages*. London, Swan Sonnenschein, N. Y., Macmillan & Co., 1893.
- MURRAY, DAVID. *The Story of Japan*. (The Story of the Nations Series.) N. Y., G. P. Putnam's Sons, 1894.
- NICHOLSON, J. SHIELD. *A Treatise on Money, and Essays on Monetary Problems*. N. Y., Macmillan & Co., 1893.
- OMAN, CHARLES. *Europe, 476-918*. N. Y., Macmillan & Co., 1893.
- ORR, HENRY B. *A Theory of Development and Heredity*. N. Y., and London, Macmillan & Co., 1893.
- Paine, Thomas. The Writings of*, Collected and Edited by M. D. Conway. N. Y., G. P. Putnam's Sons, 1894.
- POWELL, J. W. *Ninth Annual Report of the Bureau of Ethnology, 1887-8*. Washington, Government Printing Office, 1892.
- Proceedings of the Eleventh Annual Meeting of the Lake Mohonk Conference of Friends of the Indian. Edited by J. C. Barrows. Lake Mohonk Conference, 1893.
- PUTNAM GEORGE HAVEN. *Authors and Their Public in Ancient Times*. N. Y., G. P. Putnam's Sons, 1893.
- ROUSSEAU, J. J. *The Social Contract*. Translated by E. L. Walter. N. Y., G. P. Putnam's Sons, 1893.

- SADLER, M. E. *The Revelation of John the Divine*. London and N. Y., George Bell & Sons, 1893.
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- SMITH, GOLDWIN. *Essays on Questions of the Day, Political and Social*. N. Y., Macmillan & Co., 1893.
- STRADA, J. *La Loi de L'Histoire*. Paris, F. Alcan, 1894.
- Terence, *The Adelphoi of*. Edited by S. G. Ashmore. N. Y., Macmillan & Co., 1893.
- THAYER, JAMES B. *The Origin and Scope of the American Doctrine of Constitutional Law*. Boston, Little, Brown & Co., 1893.
- TURNER, FRED. J. *The Significance of the Frontier in American History*. Madison, Wisc., Wisc. Hist. Soc., 1894.
- WHITE, EMERSON E. *School Management*. N. Y., American Book Co., 1894.
- WHITTUK, CHARLES A. *The Church of England and Recent Religious Thought*. London and N. Y., Macmillan & Co., 1893.
- WILLERT, P. F. *Henry of Navarre and the Huguenots in France*. N. Y., G. Putnam's Sons.

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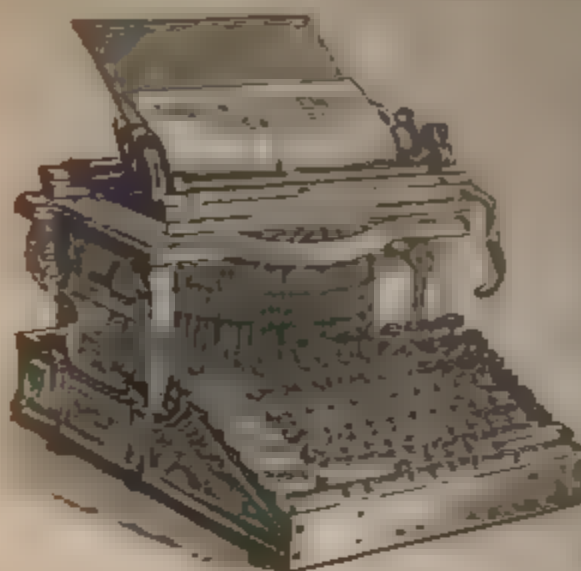
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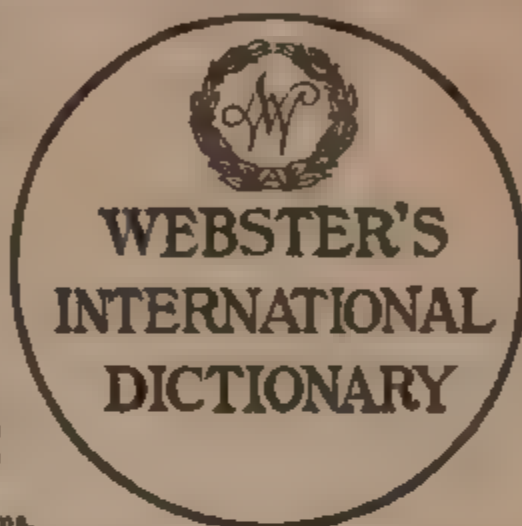
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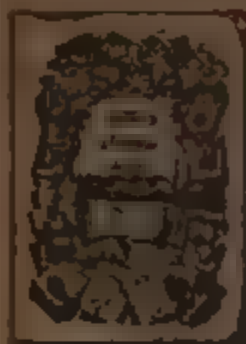
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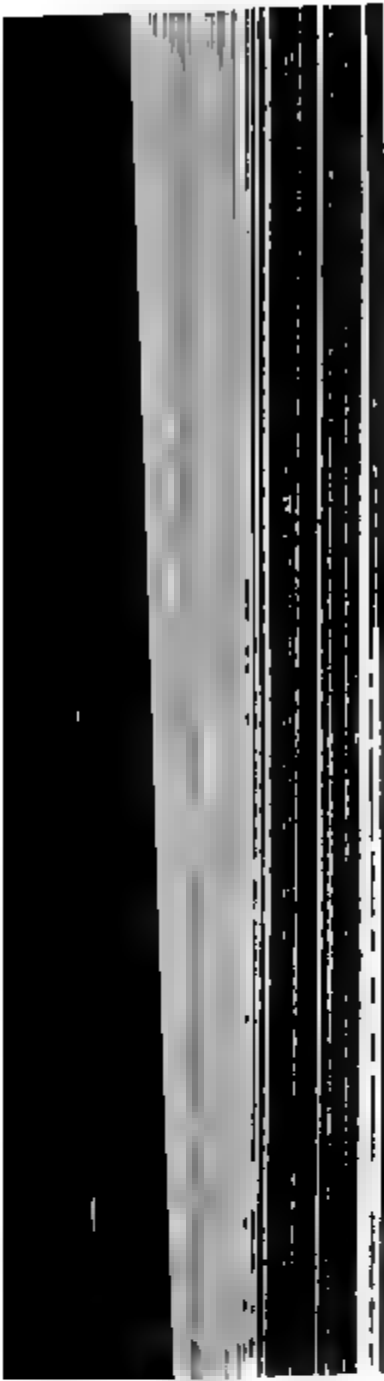
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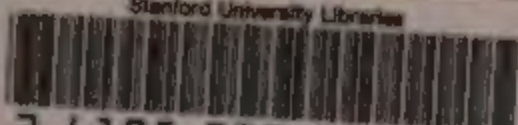








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